

Cabinet

Tuesday 14 September 2021

11.00 am

Ground floor meeting rooms, 160 Tooley Street, London SE1 2QH

Appendices Part 2

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Date: 6 September 2021

Regulatory Services Enforcement Policy 2021

Appendix 1

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Introduction

1. Southwark Council is committed to building a strong local economy.
2. Our Fairer Future principles include making Southwark a place to be proud of and that the council is open, honest and accountable.
3. To support the above objectives, we are committed to good regulatory enforcement practice and to avoid the imposition of any unnecessary regulatory burden.
4. This regulatory services enforcement policy sets out a framework to achieve this and reflects the relevant legislative powers and duties of the council.
5. The regulatory services enforcement policy has been updated following the implementation of the Regulators Code April 2014, which applies to specified regulatory functions carried out by the council, and, to the implementation of the Anti-social Behaviour, Crime and Policing Act 2014.
6. This regulatory services enforcement policy has been approved in line with the Council's constitution and supersedes previous regulatory enforcement policies.
7. This regulatory services enforcement policy is subordinate to the corporate Council overarching Enforcement Policy.
8. Beneath this regulatory services enforcement policy there are several specific enforcement policies. These specific enforcement policies are not comprehensive but apply where legislation, government or good practice has required them, for example, Food Safety, Planning, Trading Standards Private Sector Housing Enforcement Service and Integrated Pollution Prevention & Control.
9. In updating this regulatory services enforcement policy there has been consideration of the legislation, guidance and codes listed in **Appendix 1**.
10. The regulatory services enforcement policy does apply to the enforcement activities carried out in the service areas listed in **Appendix 2**.
11. This policy does not apply to Southwark Council's:
 - Financial fraud investigations and enforcement
 - Tenancy enforcement & special investigations
 - Parking, markets & highways enforcement
 - Children & Adults Services enforcement in education and social services
 - Estates & property leasing
 - Planning Enforcement
 - Building Control
 - Property Services

What is this policy for?

12. The purpose of this policy is to provide a consistent, correct, efficient and effective approach to making enforcement decisions within the regulatory services division. It also serves to communicate Southwark Council's policy towards addressing non-compliance with regard to the legislation that is enforced.
13. The Council uses a range of activities to ensure compliance with the legislation enforced by the services listed in Appendix 2. These include:
 - Site visits, inspections and patrols
 - Acting on intelligence received
 - Carrying out investigations
 - Serving legal notices/orders to effect a stop, a change, a restriction or an improvement
 - Issuing financial penalties
 - Giving formal warnings, conditional cautions and simple cautions
 - Giving informal advice, including education & awareness programmes
 - Injunctive actions, byelaws and temporary powers
 - Prosecutions
 - Carrying out test purchases, seizure, sampling and analysis
 - Licensing and Permits

The above range of enforcement activities and actions may change as further legislation is enacted or repealed.

When does this policy apply?

14. The policy applies to enforcement actions taken by the Council to deal with legislative non-compliance with the acts, regulations and orders that are enforced by the service areas listed in Appendix 2.
15. The term enforcement action includes any action taken by the council and its officers to achieve compliance, for example;
 - Giving advice, guidance, information and support to encourage compliance
 - Giving informal warnings for instances of minor non-compliance
 - Agreeing to voluntary undertakings to permit immediate or intensive action to be taken to ensure rapid compliance, e.g. voluntary premises closure, surrender of a permit or license, surrender of items, etc.
 - Removal, review or nullification of licences, permits, agreements, leases, etc.
 - Investigation & seizure of items
 - Formal action such as the service of a premises closure order, statutory notice, a penalty notice or issuing a simple or conditional caution
 - Instituting legal proceedings such as prosecution, injunction or court order

16. There may be other options for enforcement action available in respect of particular service areas. There may also be service specific statutory obligations regarding enforcement. These will be identified in the published policies relating to those particular services as referred to at points 8 & 10.
17. In applying this policy regard shall also be had to underlying policies or protocols that deal with specific service areas or issues.

General principles for dealing with non-compliance

18. There is an escalating scale of actions that can be taken depending on the nature and seriousness or severity of the non-compliance and whether it is a recurrent issue. Decisions on what the appropriate action to take is made by officers named in the Council's published scheme of delegations. This regulatory enforcement policy will be taken into account when those decisions are under consideration.
19. The type of enforcement action taken will depend on the particular circumstance of concern.
20. The council and its officers will be fair, objective and take into account the council's published approach to [equality](#).
21. Enforcement activities, including determining whether to investigate or not, will be based on whether there is an appropriate offence, any relevant risk assessments, the quality of intelligence and any available evidence, local service priorities, public nuisance considerations, the evidential and public interest tests, etc. Matters of particular local concern can also be taken into account.
22. In addition to statutory obligations all those who are subject to enforcement action will be informed of the reasons in writing.
23. Where further action is needed to achieve compliance, whether this be to a domestic occupier, a landlord, a business or a group such as a charity, is required, this will be expressly stated with a clear timeframe (where applicable). This process should involve dialogue and research to ensure timeframes applied are reasonable and achievable.
24. Where there is negligent, persistent or deliberate non-compliance, particularly by a business, it will be dealt with firmly. This is to ensure compliant businesses and individuals can operate in Southwark free of unfair or illegal competition.
25. Enforcement actions will be proportionate to the non-compliance and will ensure the minimum legal standard of compliance is maintained.
26. Enforcement action shall not necessarily be triggered if those who are subject to regulation become aware themselves of a non-compliance and show a demonstrable willingness to address the matter by seeking advice from the Council (or other agencies or their own legal representation).
27. Enforcement action against business will consider relevant Primary Authority agreements/arrangements, previously agreed formal sampling plans, inspection plans and documented quality control arrangements.
28. Where there are shared roles with other enforcement agencies, such as the Police, HSE, EA, FSA, etc., enforcement activities will be consulted on and co-ordinated as far as possible, to

avoid duplication, ensure clarity and improve regulatory effectiveness. Where appropriate, partnership work will be undertaken in line with agreed Memorandums of Understanding and any other agreements or guidance documents applicable. If these are not in place then there shall be structured, formal liaison.

29. The Council cannot take legal action against itself. Where potential formal enforcement action concerns a local authority establishment or activity, the enforcing service must notify their Head of Service and the Head of Service responsible for the establishment or activity causing concern. The Heads of Service must notify their relevant Executive Directors. The Executive Directors shall ensure that decisions concerning non-compliance internal to Southwark Council are made are free from potential and/or actual conflicts of interest. The Executive Directors will have the ability to involve another local authority or independent organisation to review decisions where any concern remains.
30. Where non-compliance is subject to an investigation, the individuals or organisations will be made aware of the investigation shall be informed of the outcome.
31. Witnesses in legal proceedings shall be kept updated in accordance with relevant service standards and targets.
32. Where legislative non-compliance is identified, but it is not the duty or responsibility of the Council to address this, information may be passed to other enforcement agencies or organisations. This shall occur with clear regard to data protection law, GDPR and any relevant protocols or Memorandums of Understanding where they are in place.

No Action

33. In certain circumstances, it might be appropriate that no action is taken. For example:
 - a) When the health and safety risk is sufficiently low enough.
 - b) Where there are extenuating circumstances regarding the person against whom action would be taken.
 - c) Taking formal action would be disproportionate or inappropriate in the circumstances of the case.

Advice guidance and support

34. Where there is evidence of non-compliance, but it is decided that the matter is minor, of low risk and/or is easily resolved, the Council can consider an advice and guidance approach as a first response.
35. Such advice would include a clear explanation of what action is required to achieve compliance, a clear timeframe for implementation and a compliance check. This might be appropriate when new legislation is introduced and businesses may be unaware of new responsibilities and/or where the nature of the breach is minor and the public are at low risk from any negative consequence or impact.
36. The Council is open to dialogue in relation to any advice or guidance given by an authorised officer.

Informal warnings

37. In some cases, an opportunity will be given to make improvements in order to comply with the law within a reasonable time period.
38. Informal warnings can take the form of a verbal warning, a report or a written warning. Informal warnings will explain:
 - the law that applies,
 - the nature of the non-compliance,
 - the action to take,
 - the time period by which compliance should be achieved (if applicable),
 - clearly define what are legislative requirements and what are recommendations, and
 - the consequences of continuing with non-compliance.
39. Informal warnings may be used as evidence of previous conduct in legal proceedings should non-compliance continue to an extent to justify formal action.
40. The council will keep an audit trail that identifies the enforcement steps taken and the opportunities given to achieve compliance.

Voluntary undertakings

41. The Council may, in certain circumstances, accept voluntary undertakings that a non-compliance will be rectified and/or a recurrence prevented. Failure to honour voluntary undertakings is taken seriously and formal enforcement action to ensure compliance is likely to follow.

Statutory notices & orders

Notices

42. Some legislation confers powers to issue statutory notices. Notices require that specified action, to achieve compliance, be carried out within a defined timescale.
43. Notices may also prohibit specified activities until the non-compliance has been rectified and/or until safeguards, to prevent future non-compliance, have been put in place.
44. The service of some notices may also be accompanied by a fee to recover costs of investigation, preparation and service of notices.
45. Failure to comply with a statutory notice may constitute a criminal offence and may lead to prosecution or the imposition of a financial penalty and/or the carrying out of necessary works in default by the Council and subsequent recovery or the costs for those works and administration and organisation of them.
46. Some notices issued may be advertised in the public domain, affixed to the premises and/or registered with the Land Registry and/or as local land charges.

Orders

47. Some legislation confers powers to issue statutory orders. Orders require the prohibition or restriction of activities, occupation and/or use, by anyone or specified groups. Orders can also require the demolition of certain buildings or structures.

48. The service of some orders may also be accompanied by a fee to recover costs of investigation, preparation and service of the order.
49. Failure to comply with a statutory order may constitute a criminal offence and may lead to prosecution or the imposition of a civil penalty and/or the carrying out of necessary works in default by the Council and subsequent recovery or the costs for those works and administration and organisation of them.
50. Some orders issued may be advertised in the public domain, affixed to the premises and/or registered with the Land Registry and/or as local land charges.

Action against licences, permits, agreements, etc.

51. The Council issues and enforces a number of formal licences, permits, permissions, agreements, etc. Occasionally the Council has a role to play in ensuring that appropriate standards are met and reflect the permits or similar documents issued by other enforcement agencies.
52. Serious or repetitive non-compliance with the terms, conditions or restrictions of a licence, permit, permission, agreement, etc. may lead to its status being reviewed, revoked, suspended, terminated or amended. In such circumstances this final decision will be reached following compliance with the appropriate process, the presentation of relevant evidence and with all relevant considerations taken into account.
53. Non-compliance with the terms, conditions or restrictions of licences, permits, permissions, agreements, etc. can also result in the instigation of formal action and legal proceedings.
54. When considering premises or person licence applications, the Council may, where appropriate, take the previous history of the premises, the person and the applicant into account when processing and deciding such applications.
55. Where stated in the principal legislation most licences and permits are subject to automatic suspension or effectively lapse if they are time limited or if there is a failure to pay due fees.

Provision of Services Regulations 2009

56. Certain licensing activities are considered services and are therefore subject to the requirements of the Provision of Services Regulations 2009. This covers the application process, how fees are set and charged and whether tacit consent is applicable. Where this applies the relevant service shall set out how the licensing process complies with these regulations.

Financial penalties

57. The Council has powers to issue financial penalties of various kinds, be they fixed or variable in respect of some offences/non-compliances as set out in a variety of statutes. Some examples are fixed penalty notices (FPNs), penalty charge notices (PCNs) or Civil Penalties.
58. If these notices/fines are not paid, or there is repeated offending, the Council may also be able to commence formal enforcement action and/or legal proceedings depending on the statute being applied. This could be recovery or the imposed penalty or prosecution for the offence that led to the imposition of the penalty.

59. If a financial penalty is paid the Council will not (or in some cases cannot) take further enforcement action in respect of the non-compliance that led to its imposition. Payment of a financial penalty does not prevent prosecution or the issue of a further penalty in respect of future or recurrent non-compliance.
60. In some circumstances, in particular where a non-compliance is serious in its impact or is recurrent, prosecution may be more appropriate (where available) recourse that the Council takes where there is a choice between a penalty and prosecution.
61. Where the statute stipulates that the Council put in place and publish policy, statements, or similar before a power to use financial penalties can be used this will be done by the individual service and covered by that services individual enforcement policy (as set out at Appendix 2).

Cautions

Simple Cautions

62. Simple Cautions are an alternative to prosecution and may be offered for some less serious offences where there is sufficient evidence to justify prosecution and the person admits the offence and agrees to accept a caution voluntarily.
63. Where a simple caution is offered and declined, the Council is likely to consider taking forward a prosecution.
64. Simple cautions shall be issued in accordance with Ministry of Justice guidelines.

Conditional Cautions

65. Conditional Cautions are another alternative to prosecution and may be offered for some less serious offences where there is sufficient evidence to justify prosecution and the person admits the offence, agrees to accept a conditional caution voluntarily, including the conditions attached to it.
66. If the conditions are complied with or completed within the timescales determined, the case is finalised and there will be no prosecution. If, however, the conditions are not complied with, a prosecution is likely to follow.
67. Conditional cautions shall be issued in accordance with Ministry of Justice guidelines.

Injunctive actions, orders etc.

68. In some circumstances the Council may seek a direction from the Court (in the form of an order or an injunction) to ensure that a non-compliance is rectified and/or prevented from recurring. In certain situations the Council can seek injunctions against minors. Where this is considered necessary, no action will be taken against any minor without full consultation with the Council's Children's Services.
69. The Court may direct that specified activities be suspended until the non-compliance has been rectified and/or that safeguards have been put in place to prevent future non-compliance.
70. Failure to comply with a Court Order constitutes 'contempt of court', a serious offence which may lead to imprisonment.

71. After the issue of some specific enforcement notices, the Council is required to seek an enforcement order from the Court, thus providing the Court with an opportunity to confirm the restrictions previously imposed. Otherwise, the Council will usually only seek a Court Order if the circumstances warrant this action.
72. Criminal Behaviour Orders (CBO's). Where the non-compliance under investigation amounts to anti-social behaviour and, where considered appropriate, a CBO will be sought to stop the activity. We will always liaise with the Anti-Social Behaviour Specialist Team before seeking an Order. This type of action may be used in incidents such as persistent targeting of an individual or a group of individuals in a particular area.
73. Public Spaces Protection Orders (PSPO's) are used to prohibit specified activities relating to anti-social behaviours, and/or require certain things to be done by people engaged in particular activities, within a defined public area.
74. Forfeiture Proceedings - This course of action may be used together with seizure and/or prosecution where there is a need to dispose of goods in order to prevent them re-entering the market place or being used to cause a further problem. Any application for forfeiture will be made to the Magistrates' Court.
75. Proceeds of Crime Applications may be made under the Proceeds of Crime Act 2002 for confiscation of assets in serious cases. The purpose is to recover the financial benefit that the offender has obtained from their criminal conduct. Applications are made after a conviction has been secured.

Compulsory Purchase and Enforced Sale

76. Enforced sale – a power that allows the Council to recover debts registered against the title of a property by forcing its sale. This is a process set out under the Law of Property Act 1925. If the Council utilises this power, it will be done in line with statutes and all relevant guidance to ensure the process is fair and proportionate.
77. Compulsory purchase – a power that allows the Council to purchase a property/land without the consent of the owner. There are various legislative powers that allow compulsory purchase in given circumstances, for example the Town and Country Planning Act 1990. If the Council utilises this power, it will be done in line with statutes and all relevant guidance to ensure the process is fair and proportionate.

Time Limited, Event Specific Powers

78. Where circumstance dictates, 'time-limited' powers may be introduced by central Government to help control certain events or issues. An example of this would be the emergency powers introduced to help limit the spread of coronavirus during the COVID-19 pandemic.
79. Where the Council is empowered to enforce temporary or time limited powers, the following will occur:
 - The appropriate officer (usually the Head of Service or above) will inform the Director of Law & Democracy as to their purpose and how they will be implemented, managed and monitored.

- The appropriate officer (usually the Director or above) will delegate powers to appropriate officers, with the consummate experience, knowledge and, where appropriate, qualifications, to manage and to discharge these duties.
 - A temporary authorisation for the use of the temporary powers, will be issued for relevant officers, which the Authority will be able to produce on request.
 - Where required, officers will be provided with appropriate training.
 - Where required, risk assessments will be amended and/or introduced to cover the use of the temporary powers and any attendant staff safety consequences of said powers.
 - Systems will be adopted or adjusted to ensure the use of the temporary powers can be recorded, monitored and managed.
80. It may be that there are other distinct enforcement agencies empowered to enforce the same or different, but related, powers. Where this is the case, the appropriate officer (usually the Head of Service or above) will ensure that:
- Named individuals of appropriate position in other agencies are contacted and communication lines established.
 - Temporary protocol/s is/are agreed and instigated, that clearly define the roles of the agencies, particularly where there is a joint enforcement role, and how activity will be coordinated, recorded and monitored.
 - A steering group arrangement will be established or co-opted to oversee any activity. Decisions and actions arising from these meetings will be recorded.
 - Where required activities will be effectively coordinated, for example joint operations. This may necessitate the need for the establishment of 'operational groups'. The jointly agreed arrangements and outcomes arising from operations will be recorded.

Byelaws

81. A byelaw is a locally adopted law that can be espoused by the Council. There are a number of acts of parliament that allow this process (enabling Act's). The process for adopting byelaws is set out in [The Byelaws \(Alternative Procedure\) \(England\) Regulations 2016](#). The process is overseen by the Ministry of Housing, Communities and Local Government (MHCLG) and final approval is given by the Secretary of State.
82. Where a byelaw is adopted by the Council the relevant Service will set out how this is used under their own specific Enforcement Policy. An example of an adopted byelaw in Southwark is a byelaw prohibiting horse riding in all but certain named parks.

Formal actions – legal proceedings

83. The Council may prosecute in respect of non-compliance with appropriate legislation in line with the principles set out in this regulatory enforcement policy.
84. The Council's Legal Services must consent to any decision to instigate legal proceedings and shall have regard to the Crown Prosecutions Service's Code for Crown Prosecutors as well as this policy and Southwark Council's overarching Enforcement Policy (2007).

85. The Crown Prosecution Service's Code involves a two-test decision making process namely, an evidential test and a public interest test. If there is insufficient evidence to provide a realistic prospect of conviction, then no prosecution should be undertaken. Where there is sufficient evidence then a prosecution must also be determined to be in the public interest.
86. Successful prosecution can also lead to the disqualification of individuals from specific activities or from acting as company directors. For example, the prosecution of a private sector landlord, or managing agent, may render them 'a not fit and proper person' under the terms of the Council's private sector housing licensing scheme(s).

Decisions on enforcement action

87. Deciding when and how to take enforcement action will be taken on the basis of the following guiding principles.
- a) **Accountability** - to recognise that it is the responsibility of every business and individual to comply with the law and that most want to do so.
 - b) **Proportionality** - to ensure that action taken relates directly to the actual or potential risk to health, safety, the environment, or economic disadvantage to residents, consumers or businesses.
 - c) **Consistency** - to ensure a broadly similar approach is taken in similar circumstances to achieve consistent results with due regard to the specifics of each case.
 - d) **Transparency & Openness** - to ensure that the enforcement action that will be taken by the Council is easily understood and that clear distinctions are made between legal requirements and what are recommendations that not compulsory.
 - e) **Objectivity** - to ensure that decisions are not influenced by reason of ethnicity, gender, gender reassignment, marital and civil partnership status, pregnancy and maternity, disability, sexual orientation, age, socio-economic status, employment status, or religious beliefs of the offender, victim or witnesses.
 - f) **Equality** - to ensure that specific consideration is given to meet any special needs of business proprietors/managers and the public where appropriate. Sensitive consideration will be given where persons involved are children, elderly, infirm or vulnerable because of mental ill-health.
 - g) **Targeting** - to ensure that regulatory action is directed primarily at those activities that present the greatest risk.
 - h) **Deter** – to ensure the perpetrator and others are deterred from repeating the non-compliance.
 - i) **Improve** - to ensure behaviours standards are improved for the benefit of the wider community.
88. Decisions will:
- Take into account whether similar social, environmental or economic outcomes could be achieved without taking enforcement action.

- Take into account risk, negligence or culpability and protect people from any (further) harm.
- Include the details and results of any requirement to consult with other organisations before taking action.

Appealing enforcement decisions & complaints against the service

89. Where there are rights of representation or appeal mechanisms against enforcement decisions these will be communicated in accordance with the relevant statutory obligations. In the absence of such obligations these will be communicated at the same time as the action is taken, or, if that is not possible, as soon as is reasonably practicable afterwards.
90. Service specific standards are usually published on the Council's website. Where these are not available online, they can be advised in writing on request by the relevant enforcement service area or team.
91. An appeal against enforcement action is distinct and separate from a complaint against the conduct of an officer or a service. If the recipient of enforcement action or someone affected by that enforcement action is aggrieved by its imposition, they should seek remedy by way of appeal to the relevant authority/court/tribunal, where they are legislatively allowed to do this. If anyone is dissatisfied with the conduct of Council officers/service, or believes there has been a failure to follow this policy, any related codes, or to meet service standards, a 'complaint about service' can be made using the Council's [corporate complaints procedure](#).

Publicising enforcement actions

92. Enforcement actions outcomes may be published in accordance with the council's communications protocol.
93. Officers should follow the advice of both legal and communications representatives with regard to press releases and other publicity, particularly where details of a particular person, group or business are to be identified. This to ensure the prevention of any data protection non-compliance by the council and to ensure any press releases align with corporate objectives.
94. Enforcement actions and outcomes will only be published with the intention of:
 - Reassuring community stakeholders that legislative non-compliance is taken seriously and dealt with,
 - providing public information on the standards of acceptable conduct and thus to deter others from undertaking similar non-compliant activities,
 - promoting and increasing intelligence about similar issues, and
 - to act as a deterrent to offenders or potential offenders from offending or repeat offending.
95. In all cases the human rights of victims, witnesses, and those against whom action has been taken, shall be taken into account.

Public Registers

96. Certain legislation/statute requires/allows the Council to add details of certain enforcement activity or licensing onto a public register, for example the database of rogue landlords, etc. These will be maintained by the Council in accordance with statute and guidance.

Conduct of Investigations

97. Investigations relating to enforcement activities will be conducted in accordance with relevant legislation and statutory obligations and with regard to any associated guidance or codes of practice, in so far as they relate to the Council and its officers.

98. At the time of publication these include:

- Police and Criminal Evidence Act 1984
- Criminal Procedure and Investigations Act 1996
- Housing Act 1996
- Housing Act 2004
- Criminal Justice and Police Act 2001
- Criminal Procedure and Investigations Act 1996
- Data Protection Act 1998
- Human Rights Act 1998
- Regulation of Investigatory Powers Act 2000
- Investigatory Powers Act 2016
- Criminal Justice and Police Act 2001
- Legislative and Regulatory Reform Act 2006
- Regulatory Enforcement and Sanctions Act 2008
- Police and Criminal Evidence Act 1984
- Protection of Freedoms Act 2012
- Regulators' Code 2014
- General Data Protection Regulations 2016
- Proceeds of Crime Act 2002

99. These Acts, Regulations and their associated guidance, control investigations and how evidence is collected and used. They give a range of protections to investigating officers, potential defendants and the public.

Authorisation of Officers

100. Only officers who are competent by training, qualification and/or experience will be authorised to take enforcement action.
101. Officers will also have sufficient understanding of this regulatory enforcement policy to ensure a consistent approach to their duties.

102. Due regard will be given to the qualification requirement framework applicable to each professional area of enforcement expertise.
103. Officers will always identify which service area they represent. They shall show their official identification or authorisation whenever exercising statutory powers and on request.
104. Details of which officers are authorised to make decisions about enforcement action are contained within the Council's constitution, various schemes of management and in the Council's Scheme of Delegation. These documents along with service specific procedures, can be made available on request.
105. Community Safety Accreditation Scheme (CSAS) – is a voluntary process whereby the chief constable can choose to accredit Local Authority officers with certain police powers to help tackle certain issues, for example the issuing of fixed penalty notices for cycling on a footpath, etc. Where Council Officers have been accredited with these powers they will be set out in the scheme of delegations and will be part of the officer's authorisations.
106. Byelaws – where byelaws are adopted by the Council, they will be set out in the scheme of delegations and will be part of the relevant Council Officers authorisations.

Partners & Protocols

Partners

107. The Council works with a wide range of partners, stakeholders, professional bodies, neighbouring local authorities and partner enforcement agencies (internal and external). The Council values the partners we work with and will engage with them in relation to enforcement activity and procedures where there are dual enforcement roles or specific targeted activity. An example of this would be working with the Immigration Enforcement Service when inspecting businesses where there is intelligence to suggest the business is using an illegal workforce.

Protocols

108. Protocols are developed to help clarify how services will work with other partners, enforcement agencies or internal services in relation to enforcement activity, especially where there are dual enforcement roles. Each service is responsible for developing their own protocols, which will sit as separate documents to the enforcement policies set out at Appendix 2.

Management of Enforcement Action for Vulnerable People

109. The Council has developed a protocol for use by officers when they are considering enforcement action against a resident. It promotes a multi-departmental approach to sharing information about vulnerable people where the information known by one department may affect the decision-making process of another.
110. The protocol helps to ensure that a proportionate approach is taken, properly considering the needs of a vulnerable resident with our responsibility to the wider communities that we serve. It recognises that a person's responsibilities are not mitigated by the presence of a vulnerability, e.g. not to cause a statutory nuisance to others. Safeguarding issues and the support needed to meet responsibilities are key points.

111. Regulatory Services will have regard to this protocol when making enforcement decisions.

Management of Enforcement Action for Minors

112. As a guiding principle across all services, no enforcement action will be taken against any minor without full consultation with the Council's Children's Services.
113. Child sexual exploitation (CSE) is when a child under the age of 18 is manipulated into having sex or engaging in sexual activities, usually in return for something. It is a form of abuse and a crime. This Authority and its partners are committed to tackling and preventing the sexual exploitation of children and young people. It's better to prevent children from being harmed than having to help children recover from the trauma of being sexually exploited. The Council and Southwark Police are carrying out widespread community education to ensure everyone knows what to do to prevent harm to children.
114. Southwark Council, local Police, health services, local schools, community and faith groups and the voluntary sector all come together to keep children safe at the [Southwark Safeguarding Children's Board](#). The Safeguarding Board wants to reach parents, children and young people, and all local organisations with information about stopping child sexual exploitation. There are 9 different "types" of child sexual exploitation. Sexual exploitation often happens alongside other forms of child exploitation, such as forcing children to break the law by carrying drugs or weapons, and using that to blackmail a child. It's easy to understand the danger to children when their "best friend" is a criminal.

Policy status, feedback and review

115. This regulatory enforcement policy has been approved in line with the Council's constitution, following consultation within the council and other enforcement agency stakeholders.
116. This regulatory enforcement policy will be monitored by the Council's Legal Services and reviewed in 2025. This may be brought forward if new legislation is enacted or current legislation is repealed that impacts significantly on the operation or status of this regulatory enforcement policy. Consultation will be sought should a review indicate significant change to the policy is needed.
117. Feedback on the regulatory enforcement policy may be given at any time via corporate complaints or form.

Contact details and obtaining copies of this policy

This policy will be published on the Council's website and will be available to download.

Hard copies are available on request.

The Council's [Accessibility Statement](#) is published on the website

Contact us at:

By letter at
Southwark Council
PO Box 64529
London, SE1P 5LX

By telephone at
Contact centre – Tel: 020 7525 2000

By email at
www.southwark.gov.uk/contact_us

Appendix 1 - Guidance and legislative codes that influenced the preparation of the policy

1 Principles of Good Regulation

The Legislative and Regulatory Reform Act 2006, Part 2, requires Southwark Council to have regard to the Principles of Good Regulation when exercising a regulatory function specified in the Legislative and Regulatory Reform (Regulatory Functions) Order 2007. These include those carried out by our environmental health, trading standards and licensing services.

2 Regulators' Code

Southwark has had regard to the Regulators' Code in the preparation of this policy. In certain instances, we may conclude that a provision in the Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

3 Human Rights Act 1998

Southwark is a public authority for the purposes of the Human Rights Act 1998. We therefore apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms. This Policy and all associated enforcement decisions take account of the provisions of the Human Rights Act 1998. In particular, due regard is had to the right to a fair trial and the right to respect for private and family life, home and correspondence.

4 The Code for Crown Prosecutors

When deciding whether to prosecute Southwark has regard to the provisions of The Code for Crown Prosecutors as issued by the Director of Public Prosecutions.

5 Specific Enforcement Legislation

For a full list of specific legislation covered by this regulatory enforcement policy you are referred to both the service authorisations and officer schemes of delegation.

Appendix 2 – Service areas to which this policy does apply

Directorate	Service area
Environment & Leisure Department	Regulatory Services <ul style="list-style-type: none"> • Community Warden Service, Environmental Enforcement, CCTV & Divisional Analytical Business Service (DABS) • Commercial Services (Trading Standards, Health & Safety, Food Safety and Environmental Protection) • Private Sector Housing Enforcement • Neighbourhood Nuisance Services (Noise & Nuisance, Licensing and SASBU)

Private Sector Housing Enforcement Policy 2021

Appendix 2

Preface

The London Borough of Southwark's (the Council) Regulatory Services Enforcement Policy sets out the approach to enforcement across the service. This Private Sector Housing Enforcement Policy is a supplement to that wider policy. It explains, in greater detail, the enforcement policy in relation to private sector housing (PSH) which includes owner/occupation, leaseholders, Registered Providers (for and not-for-profit Housing Associations) as well as the private rented sector (it excludes property owned and managed by the Council).

Private Sector Housing Services ensure that legally compliant housing conditions standards are maintained in privately owned residential property, this includes housing matters arising from privately owned land. In carrying out its functions, the service prioritises and targets resources to improve the private rented housing sector.

The Council regards all aspects of managing and renting residential property as a business and expects those engaged in it, e.g. as a landlord, a letting agent, managing agent, etc. to understand and be conversant with the relevant legal requirements and to take responsibility for their business undertakings.

The Council's preferred approach to private rented housing enforcement is to take formal action where hazards are identified under the Housing Act 2004 as set out in this policy. In all other matters an informal approach will be taken initially, and guidance and advice offered to help businesses achieve the standards required. However, where this approach fails, where there is a history of non-compliance, or where it is necessary to protect the health safety and welfare of people or the environment, the service will take formal enforcement action in line with statute.

The service's functions include; the licensing and proper management of houses in multiple occupation (HMOs), the licensing and proper management of privately rented homes, enforcement of the housing, health and safety rating system, overcrowding, public health matters and associated/related provisions. These service functions reflect the Council's statutory duties and are in-line with the Council's corporate objectives and associated strategies.

The service works closely with partners across London including other local authorities, other regulators, the Greater London Assembly and Registered Providers of social housing. Any protocols agreed with partners are referred to in this policy. The policy sets out the Council's transparent approach to private sector housing enforcement so that all stakeholders, including tenants and landlords, understand how we will deliver service functions and how they will be dealt with by the Council when it necessary to use statute to intervene.

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Background and context

Policy Aims

1. Ensure safer and healthier private sector housing.
2. Explain the legal responsibilities, policies, principles and priorities followed when we enforce legislation.
3. Raise the profile and demonstrate transparency of enforcement in the private housing sector and in particular the private rented housing sector.
4. Increase public confidence in the quality of local accommodation and assist a responsible private rented sector to thrive in the borough.

Enforcement Action – what is it?

5. Enforcement means an action carried out in exercise of, or against the background of, statutory enforcement powers. It includes inspections (using our powers of entry, which includes, where necessary, by warrant) and investigations where the purpose is checking compliance with the law. It also includes providing advice to help those responsible persons and businesses to comply with statute and more formal enforcement action such as service of statutory notices, the making of orders, the issue of financial penalties, works in default, enforced sale, compulsory purchase and prosecution.

Relationship with the divisional Regulatory Enforcement Policy

6. The London Borough of Southwark has a Regulatory Enforcement Policy that sets out the principles of good regulatory practice and the approaches that are followed by our regulatory services and officers across these services. This document is a supplement to that policy that explains in more detail the policy with regards to private sector housing enforcement.
7. Both consider the Council's approach to better regulation within the Government's Better Regulation agenda. They follow the principles of good regulation set out in the Legislative and Regulatory Reform Act 2006 (2006 Act) and subsequent related legislation.
8. The 2006 Act requires that regulatory services have regard to current Regulators Codes when developing policies and procedures that guide our regulatory activity. This policy has regard to the Regulators Code 2014.
9. This policy promotes efficient and effective approaches to regulatory inspection and enforcement without imposing unnecessary burdens on businesses such as landlords and letting or managing agents.
10. The policy recognises the contribution responsible businesses make to the private housing sector and seeks to take a robust approach to those that are not responsible and in particular those that actively seek to avoid compliance and put people at risk.

Relationship with the Housing Strategy to 2043

11. The long-term housing strategy for the Borough was agreed by cabinet in 2015. However, a refreshed version of this strategy was agreed at Cabinet on 8 December 2020. This updated housing strategy continues the long-term direction, but with simplified clearer commitments and updated actions.
12. The four fundamental issues are affordability; quality; security; and pride and responsibility. The four broad principles on these key values, as follows:
 - Increasing the supply of genuinely affordable high-quality homes that meet our residents' housing needs and aspirations.
 - Demanding safer, higher quality, energy efficient homes.
 - Promoting tenure security and social support in housing, and improving the health, wellbeing and economic resilience of residents.
 - Empowering residents and communities to have pride and influence over their homes.
13. The principles make specific reference to demanding safer, higher quality, energy efficient homes. The enforcement practices of Private Sector Housing Services will help the Council to ensure properties in the private housing sector comply with these principles.

Enforcement Objectives

14. The Council's Private Sector Housing Enforcement Service covers all privately owned residential accommodation and land. In normal circumstances, our enforcement action will be carried out to ensure:
 - a) Tenants of a private landlord or Registered Providers of social housing (RP's) live in homes free of significant hazards which affect their health and safety.
 - b) Privately rented accommodation, including houses in multiple occupation (HMOs) are managed in accordance with legal requirements.
 - c) All licensable properties are licensed, and licence conditions met.
 - d) Vulnerable occupiers, or those unable to support independent living, live in accommodation free of significant risks to their health and/or safety.
 - e) Owners or occupiers of privately-owned land or property do not cause a statutory nuisance to owners or occupiers of other land or property.
 - f) Owners or occupiers of privately-owned land or property do not present an unacceptable risk to public health, safety or the environment.
 - g) Persons are held accountable for actions which are deemed detrimental to local environmental quality or to the health, safety and welfare of residents.
 - h) The service meets its statutory duties.

Fees and Charges

15. Some legislation allows the Council to apply fees and charges in respect of the work carried out by the authority. Fees and charges are revised annually. Where fees and charges apply, they are highlighted within this policy.

Data Protection and Sharing

16. This Policy has regards to the General Data Protection Regulations and the Data Protection Act 2018.
17. The Council actively shares information between its services. The Council will share information with other organisations, partner agencies and external regulatory partners for purposes of law enforcement, to investigate matters of fraud and for the prevention or detection of crime, the capture or prosecution of offenders, and the assessment or collection of tax or duty. In doing so the sharing of data will be done in accordance with General Data Protection Regulations and the Data Protection Act 2018.
18. Where general data is shared between internal services and external agencies it is done so in line with the published corporate data privacy notice, which can be found on the Council's website. In addition, Data Sharing Agreements, which set out when, why and how we share data, have and continue to be established between relevant services where it is necessary to do so.
19. In relation to this Enforcement Policy the data that can be collected as part of the process is as follows:
- Proof of residency,
 - Addresses,
 - email addresses,
 - Social media profile (as a person or another legal entity),
 - Telephone numbers,
 - Gender,
 - Date of birth and age,
 - Health conditions/disorders/impediments/disabilities (physical and mental),
 - Nationalities,
 - Identity,
 - Details of the properties you own or renting/licensing,
 - Details of businesses you are running or associated with,
 - Details of land and buildings you own, lease or are associated with,
 - Criminal convictions,
 - Civil judgements,
 - Civil penalties issued,
 - Company names and addresses you are part of,
 - Right to manage entities you are part of,
 - Legal partnerships and their addresses you are part of,

- Vehicle registration and registered keeper and their address,
- Details of mortgages, charges, interests, restrictions against property in your ownership (as a person or other legally entity, solely or jointly),
- Household information, such as ages and gender,
- Financial information and,
- Associations, e.g. people, financial, criminal, directorships, companies, partnerships, address history, management companies, and right to manage entities.

The Rogue Landlord and Agent Checker

20. The Council is part of the Greater London Authority's (GLA) Rogue Landlord and Agent Checker. The watch list is a two-tier database hosted by the GLA. The first tier is for general public access and gives details of landlords and letting agents with unspent criminal convictions for housing-related offences under legislation, such as (not exhaustive and subject to change):
- Housing Act 2004
 - Housing Act 1985
 - Prevention of Damage by Pests Act 1949
 - Environmental Protection Act 1990
 - Protection from Eviction Act 1977
 - Fraud Act 2006.
21. This includes information such as landlord name, part of home address, address of property associated with the offence, value of fine and date of conviction.
22. The second tier is for London local authority staff only, to view spent and unspent convictions, cautions, and civil penalty notices (up to ten years previous). This aids Local Authorities in the determination of matters such as whether an individual or organisation is fit and proper to hold a licence.

The database of rogue landlords and property agents under the Housing and Planning Act 2016

23. The national database is intended to provide Councils with the ability to track rogue landlords and property agents. Where a Banning Order is issued against a rogue landlord or property agent the Council must place the information on the database. The Council has a power to enter details onto the database of other specified prosecutable offences and where it issues two or more civil penalties against the same person in a twelve-month period.
24. Before making an entry on the database, the Council must issue a notice informing the person before making an entry on the database. The Notice sets out what the entry will be and the time period the entry will remain on the database. The recipient may appeal the Notice to the First Tier Tribunal.
25. The Council will have regard to the legislation and guidance in making the decision to make an entry on the database.

Public Registers

26. The Council is under a duty to maintain certain public registers under the Housing Act 2004, which covers:

- a) Property licences for any scheme in force
 - b) Temporary Exemptions from licensing
 - c) Management Orders in place
27. The Council will maintain the registers in line with the Housing Act 2004 and subordinate regulations issued as well as any guidance. These will be made available to the public on request and are available online.
28. The information the Council places on the register is set out by statute. This includes the licence holders name and address. Where a licence holder wishes to use a business or correspondence address rather than their home address, this will be considered at the point of application. The address for the licence holder cannot be the address of the licensed property, unless that is also the licence holder's main or only residence.

Primary Authority

29. In October 2013, Primary Authority requirements under the Regulatory Enforcement and Sanctions Act 2008 (enforced by the Local Regulation Department of the Office for Product Safety and Standards) were extended to cover the Housing, Health and Safety Rating System (HHSRS), under the Housing Act 2004.
30. The Council welcomes applications from businesses to form a Primary Authority Agreement, e.g. letting agents, landlords, RPs. This can apply where either a business has housing across two or more Local Authority areas or where an organisation, such as a trade body wishes to offer a consistent approach to compliance for its members.
31. The Council will have regard to formally recognised Primary Authority Agreement's in its enforcement approach. The Local Regulation Department publish a list of primary authorities and the businesses they support.

Providing Assistance and Information

32. We offer a wide variety of assistance and information, some of which might be charged for, such as help with completing a licence application. We will provide clear, accessible advice and guidance and provide contact details where further information is required. Information is provided in a range of formats, hard copies, and electronically. Information can be provided in languages other than English, upon request, or where a need to do so is identified. Key information can be found on our website.

Targeting Enforcement Action

33. From time to time we will target our enforcement activity to ensure we meet our objectives effectively and efficiently. Our targeted action is agreed in line with the Council's constitution and delegations.
34. Some examples of ways in which activity may be targeted is set out below (not an exhaustive list):

Property Type or Occupation

- a) Unlicensed properties.
- b) Poorly managed privately rented properties.
- c) Private rented property subject to incidences of anti-social behaviour.
- d) Properties where tenants receive Local Housing Allowance/Housing Benefit/Universal Credit. These tenants are more vulnerable to lower standards of accommodation and can consequently face greater risks to their health safety and welfare.

- e) Properties poorly or illegally built or converted that may not comply with planning or building regulation requirements.
- f) Household types such as shared accommodation.
- g) Properties with a low energy efficiency rating on their Energy Performance Certificate (EPC).
- h) Construction type – where there is a known issue associated with methods of construction for example external cladding systems, precast reinforced concrete, etc.
- i) Where a style of renting or rental model causes risk to health, safety or welfare, e.g. rent to rent models, where a short-term tenant sub-lets a property creating an unregulated HMO.

Areas

- a) Where there are identified issues in a specific locality. This can be determined, for example, street by street, Local Super Output Area, town centre or ward basis, etc.
- b) Where an area of the Council has been identified as potentially having adverse health or socioeconomic indicators.
- c) To provide a co-ordinated approach alongside other Council initiatives.

Where a landlord, agent, organisation or individual:

- a) Fails to manage privately rented accommodation in accordance with legal requirements.
- b) Fails to comply with informal or formal requests to meet minimum legal requirements of relevant legislation or commits offences.
- c) Fails to submit a valid licence application or meets licensing standards and requirements.
- d) Places tenants in overcrowded accommodation.
- e) Their activities result in the need for us to work proactively to meet our enforcement objectives.

Other

- a) To support the Council's published corporate strategies and policies such as the joint strategic needs assessment or homelessness strategy.

Licensing of Private Rented Sector Properties

Mandatory HMO Licensing

- 35. On the 1 October 2018 the Government changed the definition of the type of HMO that must be licensed regardless of where you are in the country (mandatory licensing). The definition is as follows:
- 36. HMOs occupied by 5 or more people in 2 or more households, where householders lack or share basic amenities, which is:
 - A building
 - A converted flat
 - Purpose built flats (with up to 2 flats in the block, and any of which are occupied as an HMO)

37. The Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018 brought these changes into force.

Discretionary Licensing

38. Local Authorities have the discretion to bring into force licensing of residential accommodation as defined in parts 2 and 3 of the Housing Act 2004. Adopting these provisions allows local authorities to require landlords of some privately rented properties to apply for a licence.
39. There are two types of discretionary licence schemes:
- Additional HMO licensing may be appropriate where a large number of HMOs in an area are not being managed effectively and are causing particular issues for the people who live in these properties or residents in the area.
 - Selective licensing may be appropriate where there are issues with low housing demand, anti-social behaviour, high levels of migration, poor property standards, high levels of crime or high levels of deprivation (or a combination of these) in certain areas and where some or all of the responsible persons in that area are generally failing to act to address the issues.
40. The Council operated Additional HMO Licensing and Selective Licensing Schemes up to the 31 December 2020.
41. The Council is currently determining whether to introduce new schemes to replace the additional and selective licensing schemes in all or parts of the Borough. Any decision to introduce schemes will be based on sound and robust evidence to support the decisions. The Council is committed to ensuring all legislative requirements, such as a public consultation, submission and approval by the Secretary of State (where needed) are met in full before introducing any schemes.

Tacit Consent

42. Tacit consent applies to both HMO and selective licensing. This means that, if the Council goes over its self-imposed time limit for processing licensing applications (it is possible to extend this time limit once in exceptional circumstances), the applicant can operate the licensable property as though licensed unconditionally.
43. If the Council has not decided an application for a property licence (HMO or Selective) in 52 weeks from receipt of a full and complete application (application and accompanying required documentation) and initial payment, the property will be able to be operated as though the Council has granted the licence unconditionally. In exceptional circumstances the Council may extend this period once. The applicant will be notified of the reason and time period of the extension if an extension is granted by the Head of Regulatory Services. In any circumstance an extension cannot be longer than 12-weeks from the expiry of the initial 52-week period.

Operating an Unlicensed Property

44. The Council employs resources to find unlicensed properties and where identified may apply an enhanced application fee to cover the additional costs incurred in having to find the unlicensed property.
45. If a landlord cooperates with the Council an informal approach will be adopted so long as a valid application with the appropriate fee is subsequently made within a reasonable time scale. The time scale may vary depending on circumstance but will be not be less than 10 working days. Consideration will be given to any representations regarding exceptional circumstances that may have resulted in the application not having been made. In other circumstances, the Council will investigate and if appropriate consider taking formal action, such as prosecution, applying for a Rent Repayment Order, issuing a Civil Penalty, etc.

46. The Council may provide tenants with information and advice on how and when they can claim back the rent they paid whilst the property was unlicensed through the application of a Rent Repayment Order.
47. Tenants of an unlicensed property cannot be issued with a Section 21 Housing Act 1988 eviction notice whilst the property remains unlicensed.

Licence Fees

48. The Council applies fees for licensing of private rented property. Fees cover the administration and enforcement of the schemes and are subject to an annual review as a minimum.
49. Discounts may apply in certain circumstances. Please check the current fee structure to see what discounts are available.

Other Charges

50. The Council currently offers chargeable services for:
 - Assistance with licence applications
 - Providing a paper application
51. Services and charges can be withdrawn (temporarily or permanently) or other chargeable services introduced. Please check the fees and charges structure for current information.

Licence Renewal

52. To assist existing licence holders, the Council will send a reminder to the licence holder approximately 3 months before the expiry of the licence. The Council is not obliged to do this and its failure to do so does not provide the licence holder with an excuse to not make a valid re-application. Failure to renew a licence within 1 month of the licence expiring will forfeit the right to relicense at the renewal fee rate. Each case will be considered on its merits and subsequent licence applications will be charged at either the new licence or unlicensed fee rate. In addition, formal action will be considered, which may include, prosecution, applying for a Rent Repayment Order or issuing a Civil Penalty.
53. The Council may provide tenants with information and advice on how and when they can claim back the rent they paid whilst the property was unlicensed through the application of a Rent Repayment Order.
54. Tenants of an unlicensed property cannot be issued with a Section 21 Housing Act 1988 eviction notice whilst the property remains unlicensed.

Transfer of unexpired licences from the existing schemes

55. Where licences are granted under existing discretionary licensing schemes, they will either cease to be valid when that scheme ends or where they have not expired will be valid under any subsequent scheme introduced for the remainder of their licence period.
56. This is to prevent essential council resources being taken up with re-licensing properties that have already been licensed, inspected and brought up to standard within a 5-year period under the existing schemes.

Duration of Licenses

57. Licenses will normally be granted for the full five-year period (where it is a mandatory licence). The length of the licence may be shorter where any of the following apply:
- a. History of the applicant or the property. For example (not exhaustive):
 - i. Repeated and sustained complaints from tenants and/or neighbours, where the licence holder could have acted but hasn't. This could relate to management, ASB, noise, etc.
 - ii. Repeated need for enforcement action to rectify issues.
 - iii. A failure to deal with inadequate waste arrangements, following intervention.
 - iv. History of tenant harassment and alleged attempts at illegal eviction.
 - b. Significant issues arising from the inspection (if any), For example:
 - i. Management issues that significantly impact the health and/or safety of the tenants.
 - ii. Category 1 hazards (other than fire) that require the instigation of the enforcement process.
 - c. Major works required. For example (not exhaustive):
 - i. Missing a high graded AFD system.
 - ii. A complete lack of compartmentalisation to the common parts, i.e. fire doors, walls, ceilings, cupboards, etc.
 - iii. The need to add or relocate bathrooms, WCs, kitchens, etc.
 - iv. A full re-wire.
 - v. Complete window replacement.
 - vi. The installation of a whole house heating system.
 - vii. Extensive damp proofing.
 - d. Planning permission needed for HMO use or planning permission refused and the applicant needs to regularise the use of the property, i.e. bring it back into single household use.
 - e. Mortgage company refusing to finance the rental use or querying existing mortgage conditions.
 - f. The Council are the freeholder and are refusing to give permission for HMO use, to enable the applicant to regularise the use of the property, i.e. bring it back into single household use.
 - g. To remove any advantage gained over those licence holders who applied at the appropriate time.
 - h. Where a scheme is time limited by law.
58. Following the expiry of a licence a new application and fee will be required.

Fit and Proper Person Policy

59. In granting a licence the Council must be satisfied that the proposed licence holder, manager and any person involved in the management of the property are fit and proper persons. We will have regard to relevant guidance and the legislative requirements in applying the 'fit and proper' test.

60. A person's 'fit and proper' status may be reviewed at any time. Removal of the status may lead to a refusal and/or revocation of licence(s).
61. The criteria (not an exhaustive list and each case will be considered on its merits) considered when assessing a persons or an organisations ability to be a licence holder or manager are as follows:
- a. Whether there is a conviction of any criminal offence including, where relevant, any spent convictions excepted under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. Particular consideration will be given to offences of dishonesty, fraud, violence, harassment, drug trafficking, human trafficking, money laundering or offences of a sexual nature or of offences relating to child exploitation or abuse, whether or not these offences were in the United Kingdom, and Housing Act 2004 offences or any breaches of provisions of housing or landlord and tenant law.
 - b. Whether there are current relevant criminal proceedings.
 - c. Whether the party has been subject to any adverse finding or any settlement in civil proceedings.
 - d. Whether the party has practiced unlawful discrimination on the grounds of sex, colour, race, ethnic or national origin, disability, sexual orientation or religious belief in connection with carrying out their business.
 - e. Whether a spouse, business associate or controlling partner in the business, director of the company or any person with a controlling interest in the business has been convicted of any criminal offence including, where relevant, any spent convictions excepted under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. Particular consideration will be given to offences of dishonesty, fraud, violence, drug trafficking, human trafficking, money laundering or offences of a sexual nature or of offences relating to child exploitation or abuse, whether or not these offences were in the United Kingdom, and Housing Act 2004 offences or any breaches of provisions of housing or landlord and tenant law.
 - f. Whether a spouse, business associate or controlling partner in the business, director of the company or any person with a controlling interest in the business is currently the subject of any criminal proceedings.
 - g. Whether a spouse, business associate or controlling partner in the business, director of the company or any person with a controlling interest in the business has been subject to any adverse finding or any settlement in civil proceedings.
 - h. Whether a spouse, business associate or controlling partner in the business, director of the company or any person with a controlling interest in the business has practiced unlawful discrimination on the grounds of sex, colour, race, ethnic or national origin, disability, sexual orientation or religious belief in connection with carrying out business.
 - i. Owns or has previously owned a property that has been the subject of an:
 - interim or final management order whilst in their ownership, or a special
 - Interim management order under the Housing Act 2004.
 - j. Is subject to a banning order under Section 16 of the Housing and Planning Act 2016.
 - k. Owns or has previously owned a property for which the council has taken action as described in Section 5(2) of the Housing Act 2004, which includes the service of an Improvement Notice, Prohibition Order, Emergency Prohibition Order, Hazard Awareness Notice, Demolition Order or Emergency Remedial Action.
 - l. Other convictions/enforcement action relating to:

- Environmental Health convictions
 - Financial Penalty issued
 - Rent Repayment Order made
 - Banning Order made
 - Inclusion on the National Rogue Landlord and Property Agent Database or the Greater London Assembly Rogue Landlord or Agent Checker
 - Convictions for Illegal eviction/harassment
 - Environmental Health - Enforcement Action, e.g. the making of Prohibition Order, failing to comply with an Improvement Notice, etc.
 - Waste Enforcement
 - ASB Enforcement
 - Planning Enforcement
- m. Whether a person residing abroad can effectively manage the property or has in place a UK based Manager/Licence Holder that can properly manage the property, which includes access to funds to carry out management, repairs, maintenance and deal with emergencies, etc. and agrees to be bound by the licence conditions.
- n. Whether a person is in prison for a term of more than 2 months.
- o. Type of property being licensed.
- p. Size of the property being licensed.
- q. The level of risk to health and/or safety associated with the property.
62. Appropriate investigations will be undertaken to establish the fit and proper status of an individual or the directors of a company or the partners of a partnership.
63. Each application will have to be considered individually by the local authority and the declaration of an unspent conviction would not necessarily mean that the applicant was not a fit and proper person

Licence Conditions

64. All licences will carry conditions. Some conditions are set out in statute and must be included in a licence and the Housing Act 2004 allows the Council to also impose discretionary conditions against a licence. The conditions imposed (other than the mandatory conditions) can be omitted or amended depending on the circumstances and where necessary specific conditions added to a licence relating directly to the property in question. Conditions used by the Council are published here.
65. Where a discretionary scheme has been introduced for specific issues, e.g. a prevalence of ASB incidences associated with the PRS then that scheme will have licence conditions that specifically meet the needs of that scheme.
66. Changes to these conditions are subject to the approval of the Head of Regulatory Services (or their nominee).
67. All conditions are subject to consultation and where necessary appeal to the First Tier Tribunal as part of the licensing process.

68. Breaching any licence condition is an offence, which carries an unlimited fine or the imposition of a Civil Penalty of up to £30,000 for each breach. In most cases the Council will inform the licence holder and manager of the breaches of the conditions informally giving a reasonable time to remedy the defects (usually 10 working days). If the informal process fails, then the Council will consider formal action.

HMO Standards

69. The Housing Act 2004 allows the Council to adopt standards for HMOs. These cover issues such as types and numbers of amenities (such as bathrooms and kitchens) different types of HMO should have, they cover minimum room sizes for different types of room use, etc.
70. These apply to all HMOs and the Council expects operators of HMOs to adhere to these. Where an HMO is licensed the licence will set out the levels of occupancy the HMO and its rooms can accommodate and where necessary require works to bring the HMO to a level required by the adopted standards.
71. HMO Standards adopted by the Council are published here. Changes to these standards are subject to the approval of Head of Regulatory Services (or their nominee).

Variations and Revocations of a Licence

Variations

72. This is where a current licence is varied to effect a change to the licence, for instance, changing the number of people that an HMO is licensed to accommodate. There are three types of variation:
- I. Minor Variations - The legislation allows the Council to put aside the formal route for dealing with variations if the variation required is deemed immaterial. Examples of minor variations are:
 - Change of address for the licence holder, manager or other party.
 - Correcting a minor mistake in the licence, e.g. the spelling of a name, mislabelling, etc.
 - Change of title, e.g. from Miss to Mrs.
 - Change of maiden name to a married name.

The list is not exhaustive and other matters might fit the criteria.

- II. Variations Agreed with the Licence Holder - The legislation allows the Council to put aside the formal route for dealing with variations if the variation is agreed between the licence holder and the Council and the Council deem that the variation does not need to be consulted on. Examples of variations that fall within this category are:
 - Changing the Manager (only where the new Manager passes the fit and proper person assessment).
 - Adding facilities, e.g. a laundry room/area (that doesn't affect the number of households and persons).
 - Adding additional bathrooms or kitchens or facilities in existing bathrooms (that doesn't affect the number of households and persons).
 - Increased fire precautions, e.g. a sprinkler system, increased detection coverage, etc.

The list is not exhaustive and other matters might fit the criteria.

III. Formal Variations – This is where the variation is consulted upon and formal notices, subject to appeal are served. Examples of variations that fall within this category are:

- Changing the Manager.
- Adding facilities, e.g. a laundry (that affects the number of households and persons).
- Adding additional bathrooms or kitchens or facilities in existing bathrooms and kitchens (that affects the number of households and persons).
- Changing room sizes.
- Changing the number of households or persons.
- Accommodating children.
- Adding an extension/conversion that affects current occupants and/or affects the number of households and persons.
- HMO use for a specific demographic that may as a result require amended conditions, e.g. a wet hostel.
- A change in HMO type, e.g. from a shared to a room let.
- A change in the type of applicable 257 licence, e.g. via the selling of a flat.

The list is not exhaustive and other matters might fit the criteria.

73. A licence is not transferable. Therefore, any change in the actual licence holder has to be dealt with by way of a new application from the new proposed licence holder.

Revocations

74. This is where a licence exists and a revocation is requested/considered necessary. There are three types of revocation:

- a. Revocations agreed with the Licence Holder - The legislation allows the Council to put aside the formal route for dealing with revocations if the revocation is agreed between the licence holder and the Council and the Council deem that the revocation does not need to be consulted on.

The only time a revocation by agreement can be made is where there are no other interested parties that might be affected or need to know about a revocation, i.e. only the licence holder is affected.

- b. Banning Order - Where a banning order relates to a licensed property then the Council is under a duty to revoke the licence if either of the two criteria applies:

- The local housing authority must revoke a licence if a banning order is made against the licence holder.
- The local housing authority must revoke a licence if a banning order is made against a person who owns an estate or interest in the house or part of it and is a lessor or licensor of the house or part.
- The banning order does not have to be instigated by the Council but can come about from any Borough's area.

- c. Formal Revocations – This is where the revocation is consulted upon and formal notices, subject to appeal are served. A licence can be revoked, if any of the following apply:
- Where the Council considers that the licence holder or any other person has committed a serious breach of a condition of the licence or repeated breaches of such a condition.
 - Where the Council no longer considers that the licence holder is a fit and proper person to be the licence holder.
 - Where the Council no longer consider that the management of the house is being carried on by persons who are in each case fit and proper persons to be involved in its management.
 - Where the property to which the licence relates ceases to be licensable.
 - Where the authority considers at any time that, were the licence to expire at that time, they would, for a particular reason relating to the structure of the property, refuse to grant a new licence to the licence holder on similar terms in respect of it.
 - That the property is not reasonably suitable for the number of households or persons specified in the licence as the maximum number authorised to occupy the house.

75. The death of a licence holder doesn't require the licence to be revoked. Instead the following applies:
- If the holder of the licence dies while the licence is in force, the licence ceases to be in force on date of their death.
 - However, during the period of 3 months beginning with the date of the licence holder's death, the house is to be treated for the purposes as if on the date of death a temporary exemption notice had been served in respect of the house.
 - If, at any time during the initial 3 month exemption period, the representatives (evidence of their authority to be given) of the deceased licence holder request it the initial 3 months can be extended by a further 3 months by way of issuing a temporary exemption notice.

Management Regulations

76. HMO Management Regulations place requirements on landlords and managers of HMOs to maintain, communicate and manage the HMOs they run. The Regulations also place requirements on occupiers of HMOs to not obstruct or interfere with the management and maintenance of the HMO. There are two sets of Regulations; The Management of Houses in Multiple Occupation (England) Regulations 2006 and the Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007. Both sets cover the same requirements but relate to different types of HMOs, the former traditional room rent or shared HMOs (as defined under section 254 of the Housing Act 2004) and the latter covering HMOs that are either older or poorly converted blocks of flats where a third or more of the flats are rented out (as defined under section 257 of the Housing Act 2004). The Regulations cover:
- a) Duty of manager to provide information to occupier.
 - b) Duty of manager to take safety measures.
 - c) Duty of manager to maintain water supply and drainage.
 - d) Duty of manager to supply and maintain gas and electricity.
 - e) Duty of manager to maintain common parts, fixtures, fittings and appliances.

- f) Duty of manager to maintain living accommodation.
 - g) Duty to provide waste disposal facilities.
 - h) Duties of occupiers of HMOs.
77. Breaching any of the Regulations is an offence, which carries an unlimited fine or the imposition of a Civil Penalty of up to £30,000 for each breach. In most cases the Council will inform the landlord and/or manager of the breaches of the regulations informally giving a reasonable time to remedy the defects (usually 10 working days). If the informal process fails, then the Council will consider formal action.

Management Orders

78. These powers are contained in the Housing Act 2004 and may be used as a last resort where
- a) All other attempts have failed,
 - b) There is no reasonable expectation of a licence being granted or
 - c) It is necessary to protect the health safety or welfare of occupiers, visitors or persons living in the area or,
 - d) Anti-social behaviour is affecting other occupiers, visitors or persons living in the area.
79. The Council has plans in place to manage properties where a management order is made. These arrangements can include external agencies.

Overcrowding

80. The service will investigate requests for service received about overcrowded living conditions howsoever received and take the appropriate action, which will also account for the impact on neighbours. The service will liaise with the Council's Housing Services where our actions are likely to lead to occupants moving out of their accommodation. The service may advise persons living in overcrowded conditions that their health/safety is at risk and not require them to move out if they do not wish to do so. The Council may require a responsible person to reduce or limit the numbers of tenants when re-letting the property under a new tenancy after an existing tenancy comes to a natural conclusion. Each case will be judged on its own merits.

Anti-Social Behaviour

81. Where complaints of anti-social behaviour are more appropriately dealt with by other services, such as the Noise and Nuisance team, Antisocial Behaviour Unit, the Environmental Protection Team, these complaints will be referred to them. When making such a referral the service requester will be informed of the team dealing with the matter and provided with the appropriate team contact details.
82. Where we have legal powers to deal with anti-social behaviour, we will initially liaise with relevant organisations such as academic institutions, landlords and their associates in addition to the above teams to seek an informal resolution. Where this approach fails to resolve the matter, formal action against the responsible person will be considered, where possible.
83. Conditions attached to property licences may also deal directly with the Council's expectations of how licence holders and managers will deal with incidents of anti-social behaviour. This is dependent on the licensing scheme a property falls under.

Public Health

84. The Council will investigate cases relating to the protection of public health, which include:
- a) Private drainage and sewerage issues, e.g. blocked and broken sewers.
 - b) Nuisance issues between properties, e.g. damp ingress from a neighbouring property.
 - c) Pest and pest harbourage problems, e.g. infestations and accumulations that may attract pests.
 - d) Filthy and or/verminous premises, e.g. a home that has build-up of items that may represent a risk to health.
 - e) Securing premises to protect public health.
85. A variety of legislation is employed to investigate and remedy these issues, which can include the service of Notice and carrying out works in default. Where there is a blatant disregard for public health, criminal proceedings may be instigated against the perpetrators.

Housing, Health and Safety Rating Scheme (HHSRS)

86. HHSRS is a risk-based assessment for defining the risk to health safety of occupants and visitors from 29 defined hazards, e.g. excess cold, damp and mould, falls, etc. in residential property. The hazard is assessed, scored and banded between A to J.

Category 1 hazards

87. These are hazards that have been scored as representing a serious risk to health and/or safety. The Council has a legal duty to act to deal with category 1 hazards (band A-C). It is committed to doing so; taking appropriate action in accordance with this policy, the Regulatory Services Enforcement Policy and the Council's adopted Enforcement Policy (2007).

Category 2 hazards

88. The Council has a discretionary power to address category 2 hazards (band D-J). These are hazards that represent a significant risk health and/or safety.
89. Officers will exercise their professional judgement when proposing enforcement action against category 2 hazards. Officers will have regard to national guidance and the following locally authorised guidelines:
- a) If the category 2 hazard is rated at band E or above (considering the national average for the type and age of the property).
 - b) Where there are category 1 hazard(s) also present.
 - c) Where the category 2 hazard is progressive and will likely become a category 1 hazard unless preventive action is taken.
 - d) Where there are targeted enforcement priorities, e.g. defined action areas or as part of a project to address specific issues.
 - e) Where there are two or more category 2 hazards, which when considered together, amount to neglect of the property or disregard for tenant's health, safety or welfare.
 - f) Where there is a track record or history of the responsible party disregarding previous enforcement advice or action, there are previous convictions for relevant offences, or a relevant licence has been refused. The Council has low confidence, based on evidence, that the responsible party will take the appropriate action without enforcement action being taken.

Enforcement Action

General Information

90. All officers will be fully trained, competent and authorised by the Council. An authorised officer will carry an identity card and, where appropriate, a warrant card. The identity card shows a photograph of the officer and their job title. The warrant card shows the officers name, job title and lists the legislation under which the officer is empowered, which includes powers of entry.
91. We will use all available powers to meet the enforcement objectives within this policy. These powers include powers of entry, production of documents, requirement to produce information about a person's identity and interest in property/land and the power to require certificates regarding gas or electrical safety. We will have regard to any relevant government guidance when carrying out our enforcement activity.
92. We will have regard to other legal requirements that might apply to our actions for example the Human Rights Act 1998, Data Protection legislation, Regulation of Investigative Powers Act 2000, Criminal Procedure and Investigations Act 1996 and codes of practice made under the Police and Criminal Evidence act 1984, etc.

Tenants of Not-for-Profit Social Landlords (Registered Providers)

93. The Council recognise that social tenants of not-for-profit Registered Providers (RPs) have in place greater protections than tenants of private landlords. Registered Providers are regulated by the Regulator of Social Housing. RP's will have in place complaints processes a social tenant can follow where they believe the conditions of their homes are unsatisfactory. Where a social tenant doesn't believe their RP has responded correctly or reasonably to their complaint of disrepair, they have further recourse to the Housing Ombudsman, who provide a dispute resolution service.
94. Therefore, the Council will expect social tenants to have exhausted the complaints process with their RP and then the Housing Ombudsman before the Council will consider requests for service (in relation to sub-standard conditions of their homes) from social tenants. This allows the Council to target its limited resources in tackling private rogue landlord behaviour.
95. Exceptions to this policy:
 - Where the issue presented by the social tenant presents an imminent risk to health and safety of the tenant or members of the public.
 - Other unforeseen circumstances shall be considered on their own merits by the Head of Regulatory Services.

Leaseholder and Freeholder Disputes

96. This section relates matters where a building compromises a freehold interest (an owner of the shell of the building) as well as one or more leasehold interests (a limited time owner of self-contained element of that building, e.g. a flat, commercial unit, storage unit, etc.). A leaseholder term is usually 21 years or more.
97. Leaseholders may find themselves in a situation where they are aggrieved by an action or the lack of action of a freeholder, for example the maintenance of a communal system like a central heating system.
98. The Council has powers to intervene to require freeholders to maintain and repair common parts. However, there is an expectation of leaseholders to first exhaust the civil processes available to them before approaching the Council for assistance. This is because the law recognises this relationship and provides avenues to leaseholders to address matters. Government advice is accessible here - Leasehold property - GOV.UK (www.gov.uk)

99. In the first instance the Council encourages leaseholders to obtain advice from the Leasehold Advisory Service (LEASE) - Home - The Leasehold Advisory Service (lease-advice.org) which is a government funded organisation specifically established to provide expert advice on freehold and leasehold matters.
100. The First-Tier Tribunal (Property Chamber - Residential Property) deals with leasehold/freehold disputes on the following matters:
- Service or administration charges
 - The cost of building insurance
 - Appointment of a manager
 - Right to Manage
 - Breach of a lease
 - Varying a lease
 - Recognising a tenants' association
 - Buying the freehold
 - Extending the lease
101. Particular attention is drawn to the leaseholder ability to establish a Right To Manage Company where they believe that the freeholder is not satisfactorily managing the freehold interest - Leasehold property: Right to Manage and management disputes - GOV.UK (www.gov.uk)
102. Once these avenues have been exhausted without resolution will be the Council is able to step in and assist. This is however limited to the Council assisting with the maintenance and/or repair of housing standards in the common areas under the control of freeholder.
103. Exceptions to this policy:
- Where the issue presented by the leaseholder presents an imminent risk to health and safety of the tenant or members of the public.
 - Where the issue presented by the leaseholder relates to a defect to their flat caused by another leasehold interest or the freehold interest, e.g. a water leak.
 - Where the issue relates to potentially dangerous exterior cladding impacting the fire safety on residential blocks of flats. Where this is the case the Council will risk assess the block in question and will target its limited resources on the highest risk blocks first.
 - Other unforeseen circumstances shall be considered on their own merits by the Head of Regulatory Services.

Charging for Enforcement Action

104. The Housing Act 2004 allows the Council to make a reasonable charge to recover administrative and other expenses for taking certain enforcement action. Other legislation also allows us to recover costs covering officers' time and expenses accrued when determining works necessary in the case of works in default.
105. The service will recover all costs and fees when formal action is taken when we think it is reasonable to expect the responsible person to pay these in the circumstances. Fees and charges are agreed by

Full Council on an annual basis and published on the website here. Please refer to these for the latest charges.

Types of Enforcement

106. The information in the Regulatory Services Enforcement Policy and the Council's adopted Enforcement Policy (2007) describes the range of enforcement action available to the service and the approach we take to deciding which of those is the most appropriate. The information below is provided to supplement these policies and describe some situations where particular action might be taken.

No Action

107. In certain circumstances, it might be appropriate that no action is taken. For example:
- a) When the health and safety risk is sufficiently low enough.
 - b) Where there are extenuating circumstances regarding the person against whom action would be taken.
 - c) Taking formal action would be disproportionate or inappropriate in the circumstances of the case.
108. The Council may make recommendations which are above the legal minimum requirements, advise if there are other avenues open to persons to resolve issues themselves, or refer to another appropriate regulator or advice service.

Informal Action

109. In most cases officers will seek resolution of issues through initially working on an informal basis with those involved. Informal action can take the form of verbal requests, letters or emails or schedules of work. It will be made clear that formal action could follow where there is a failure to respond to informal requests to carry out works to meet legal requirements. When formal action is taken in the first instance, without preceding informal action, they will inform the owner, landlord, agent or other appropriate person of this decision and their reasons for doing so.

The Relationship between Enforcement and the Deregulation Act 2015

110. Responsible landlords would not use section 21 eviction (known as 'no fault evictions') proceedings to evict tenant(s) because the tenants have reported disrepair. Where this does happen, it is known as a retaliatory eviction. The government has put in place a method by which tenants should deal with issues of disrepair/improvements that is aimed at stopping retaliatory evictions. This is covered under the Deregulation Act 2015. The process is simplified below.

What should happen?

- The tenant(s) set out the issues in writing
- The landlord has 14 days in which to respond to the tenant(s)
- Agreed, reasonable, works carried out by the landlord

When it doesn't happen this way

- Where a landlord fails to engage with the tenant(s) or fails to undertake reasonable works, then the Council will step in and take enforcement action. Where action is taken the landlord cannot issue Section 21 eviction notice.

111. Where tenants have complied with the requirements of the Deregulation Act 2015 (the Council request they do so before making requests for service) then the Council will forego any informal action and proceed directly to formal enforcement action to prevent the possibility of a retaliatory eviction.

Formal Action

112. Where the circumstances of the case justify it, officers are expected to take a formal approach. Formal action will also be taken where compliance with a statutory requirement has not been achieved by informal action.
113. Circumstances where it is appropriate to take formal action include the following (this is not an exhaustive list and each case is considered on its own merits):
- a) There is an actionable risk to health and safety such as:
 - No heating in cold weather.
 - No hot water to wash and prepare food safely.
 - Exposed electrical wiring which people are likely to encounter.
 - Gas leak or risk of fire.
 - Raw sewage surcharging into a neighbour's property.
 - b) A responsible person fails to carry out works requested informally.
 - c) There is a history of failure to meet requests to carry out legally required works.
 - d) There is a history of a failure to manage a property to meet legal requirements.
 - e) There is a record of criminal convictions for housing related offence(s) in the last five years or a simple caution has been issued in the last two years.
 - f) It is necessary to safeguard and protect health and safety in the future.
114. There are several options for formal action. The decision as to which is the most appropriate depends on the circumstances of each case, the relevant legislation and the risk to health and safety. The options are as set out below:
115. Service of formal notices or orders
116. These are served/made in accordance with the requirements of the relevant legislation. The associated paperwork will set out:
- Reason this action is being taken,
 - Timescale for completion of any works (where required),
 - Works that are required,
 - Representations that may be made,
 - Relevant appeal periods,
 - Details of any charges, and
 - Consequences of non-compliance.

117. The Council has the power to suspend Improvement Notices and Prohibition Orders under part 1 of the Housing Act 2004. Suspension would be considered on a case-by-case basis and where the circumstances of the current occupiers were such that other options were not practical.

Emergency action

118. In some emergency situations enforcement action will be taken that will involve carrying out work without the prior need to serve legal notice. Examples are:
- Where there is an imminent risk of serious harm to the health or safety of occupiers or others (Emergency Remedial Action under the Housing Act 2004).
 - Where there is an immediate need to secure a building against unauthorised entry or to prevent it becoming a danger to public health (subject to the provisions of the local Government (Miscellaneous Provisions) Act 1982).
119. In circumstances where works would be inappropriate, disproportionate or impossible to remedy the emergency situation an Emergency Prohibition Order (Housing Act 2004) will be made, which will prohibit or restrict part or all the property from use or certain uses by any of a defined category of person, e.g. a child, etc.
120. In all cases, where the legislation allows the Council will seek to recover the cost of the work and the administration and officer costs associated with the action.

Prosecution

121. Where the Council recommends a case for legal proceedings (prosecution), it will be considered in accordance with the Regulatory Services Enforcement Policy and the Council's adopted Enforcement Policy (2007). The Head of Regulatory Services considers whether a case has been investigated sufficiently to ensure it meets evidential and public interest tests set out in the Code for Crown Prosecutors and whether any statutory defences are available to the person(s) under investigation. Cases are referred to the Council's legal services for legal court proceedings to start. Each case will also be considered for investigation and action under the Proceeds of Crime Act 2002.
122. Verdicts and sentences are given in open court and are a matter of public record. The Council will publicise sentences following prosecution on a case-by-case basis and in line with the Ministry of Justice's guidance. The guidance has a presumption in favour of publicising outcomes of criminal cases and basic personal information about convicted offenders to reassure the public, increase trust and confidence or improve the effectiveness in the justice system and discourage offending or re-offending.

Cautions

Simple Caution

The service may offer a Simple Caution as an alternative to prosecution where someone has:

- Admitted to an offence,
 - Where it is their first offence, and
 - They have as far as practicable assisted officers in remedying the situation that led to the offence.
123. Relevant examples include applying for a licence as soon as the person is made aware one is required, or quickly complying with the requirements of an expired legal notice.

Conditional Caution

124. Conditional Cautions are another alternative to prosecution and may be offered for some less serious offences where there is sufficient evidence to justify prosecution and the person admits the offence, agrees to accept a conditional caution voluntarily, including the conditions attached to it.
125. If the conditions are complied with or completed within the timescales determined, the case is finalised and there is no prosecution. If, however, the conditions are not complied with, a prosecution may follow.
126. Conditional cautions shall be issued in accordance with Ministry of Justice guidelines.
127. Cautions are issued by the Head of Regulatory Services for private housing matters as an alternative to prosecution.

Work in default

128. This is where the Council has legally required a person to do works but they have failed to do so. The Council can carry out all or some of the required works. The powers are provided for in the specific legislation being used in the case.
129. In most cases a responsible person will be given notice of the intention to carry out works in their default. Once works have started it is an offence for that person to obstruct officers or their appointed contractors. The complete cost of the works and all administrative and other costs will be recovered in accordance with the relevant statutory provisions. The Council will also consider prosecution or the imposition of a Civil Penalty for any failure to act in addition to carrying out works in default to resolve the matter.

Rent Repayment Orders

130. The Housing and Planning Act 2016 revised the powers available for applying for a Rent Repayment Order (RRO). An RRO requires a landlord to repay a specified amount of rent (up to 12 months) in certain circumstances.
131. The Council can make an application to the First Tier Tribunal (FTT) for an RRO to recover benefit payments related to housing, where the landlord has:
 - Failed to comply with an Improvement Notice under the Housing Act 2004.
 - Failed to licence a property requiring a licence under the Housing Act 2004.
 - Failed to comply with a Prohibition Order under the Housing Act 2004.
 - Breached a Banning Order under the Housing and Planning Act 2016.
 - Used violence to secure entry to premises under the Criminal Law Act 1977.
 - Illegally evicted or harassed occupiers under the Protection of Eviction Act 1977.
132. The Council will consider making an application for an RRO when making investigations into the above offences. An application to the FTT for an RRO can be made if a conviction has been secured or a Civil Penalty issued or where there is no prior conviction.
133. Where there is a prior conviction or a Civil Penalty has been issued (where there is no prospect of appeal), the full amount of rent (up to a maximum of 12 months) will be applied for and FTT is compelled by law to make an Order for that amount (as long as it has been correctly calculated).
134. Where a conviction hasn't been secured the FTT will determine whether the Council has met the criminal standard in relation to the relevant offence. The Council will have regard to the statutory guidance and consider the following before deciding to make an application:

- Punishment of the offender – the Council will consider if making an application for an RRO will have a real economic impact on the offender. Where this is unlikely, i.e. where the amount of rent paid over the preceding 12 months is minimal and doesn't reflect the severity of the offence, the Council will consider prosecution or the issue of a Civil Penalty (where it can do so) as well as applying for an RRO.
 - Deter the offender from repeating the offence and dissuade others from committing similar offences – The Council will consider whether the impact from making an application for an RRO in any case will be of such a financial impact and whether the wide publication of a successful application for an RRO will be of such an impact as to dissuade and deter the offender and others from repeating the behaviour or, in the case of others, committing similar offences. Where this is unlikely the Council will consider prosecution or the issue of a Civil Penalty (where it can do so) as well as applying for an RRO.
 - Remove any financial benefit the offender may have gained as a result of committing the offence – The Council will only consider making an application for an RRO where the impact of such an order will reflect the benefit the landlord has gained from not complying with the responsibilities, e.g. where the landlord has not carried out necessary works to improve the standards in their property and the effect of recovering up to 12 months' rent will sufficiently reflect the costs of those works. Where it is unlikely that the amount recoverable is sufficient to mitigate the benefit, the Council will consider prosecution or the issue of a Civil Penalty (where it can do so) as well as applying for an RRO.
135. Before making an application, the Council will serve on the relevant person a Notice of its intentions to make an application, which will state the reasons for doing so. This will cover the above issues (where a conviction hasn't already been secured), the amount being sought and invite the relevant person to make representations within the statutory time limit. The Council will consider any representations before making an application to the FTT.
136. A tenant of a property, where a relevant offence has been committed by their landlord, can also make an application to the FTT for an RRO. The Council will inform tenants of this right and will assist tenants in making their applications.
137. Failure to pay the amount required by an RRO will result in the Council pursuing recovery of the debt through the County Court.

Civil and Financial Penalties

138. The Smoke and Carbon Monoxide Alarm (England) Regulations 2015, The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020, the Housing Act 2004 (as amended by the Housing and Planning Act 2016) and the Housing and Planning Act 2016 enables enforcement by the imposition of a Civil/Financial Penalty.
139. Failure to comply with the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 will result in the Council carrying out the works necessary to install appropriate smoke and/or carbon monoxide detection and issuing a Civil Penalty of up to £5,000.
140. Failure to comply with the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 will result in the Council serving a Remedial Notice. Where there are urgent repairs required the Council may undertake Urgent Remedial Action. The Council may also issue a financial penalty of up to £30,000 where a landlord is in breach of the any of the duties set out in these regulations.
141. The Council may impose a Civil Penalty, as an alternative to prosecution, of up to a maximum of £30,000 in respect of the following offences:
- Failure to comply with an Improvement Notice (Housing Act 2004).

Note. Where a Civil Penalty has been issued and the recipient of the Improvement Notice continues to not comply, the Notice will be revoked, and a further Improvement Notice served.

- Failure to licence or other licensing offences relating to HMOs (Housing Act 2004), which applies to both mandatory and additional HMO Licensing Schemes.
- Failure to comply with an Overcrowding Notice (Housing Act 2004).
- Failure to comply with a regulation in respect of an HMO (Housing Act 2004).
- Breaching a Banning Order (Housing and Planning Act 2016).

142. Failure to pay a Civil Penalty will result in the Council pursuing recovery of the debt through the County Court.

143. Appendix one sets the Council's statement of principles for the issuing of civil penalties.

Protocols

144. The following protocols have been developed to help clarify how the service will work with other partners, organisations or services in relation to private housing. These may be added to or amended over time.

145. The Fire Safety enforcement protocol with London Fire and Emergency Planning Authority (LFEPA) sets out how both the Council and LFEPA will take enforcement action in relation to fire safety in properties where there is an overlap between each organisation's duties and powers.

Partners

146. The Council works with a wide range of partners and stakeholders including private sector landlords and their representatives such as the National Residential Landlords Association, resident's groups, other Council services, other regulators such as LFEPA, Immigration Enforcement Service, HMRC and neighbouring local authorities. We value the partners we work with and will engage with them in relation to enforcement activity and procedures.

Appeals and Complaints Procedure

147. The Regulatory Enforcement Policy, the Southwark Council's overarching Enforcement Policy (2007), this policy and the guidance referred to, are relevant documents we will consider when reviewing complaints in relation to our enforcement activity. There will also be further guidance that will be considered in relation to any service complaint that is not specifically mentioned here.

148. We will inform all persons who are the subject of formal enforcement action of their right of appeal. This right will vary depending on the legislation used.

149. Where a person is aggrieved by the imposition of enforcement action by the Council, then the Council expects that person to utilise the legislative provisions set out for appealing that imposition rather than the Council's complaints procedure, which if used, may result in the person denying themselves their ability to appeal as most appeal provisions impose a statutory time limit.

150. The Council's complaints procedure is available for complaints relating to the application of this policy or against the conduct of officers or the service.

Enquiries

Enquiries about this policy can be made to:

Email: resi@southwark.gov.uk

Telephone: 0207 525 3114

Post: Southwark Council, Regulatory Services, Private Sector Housing Enforcement, PO BOX 70063,
London SE15 9EG

Glossary

Registered Providers – A term used to describe an organisation registered with the Regulator of Social Housing that provides social housing.

Housing Ombudsman – an organisation set up under law to provide a resolution service over disputes between social tenants and their RP.

Landlord - is anyone who rents out a property they own under a lease or a licence that is shorter than seven years.

Letting agent – is a person/organisation who engages in letting agency work (whether or not that person engages in other work). Includes work in seeking to find another person to whom to let housing, or a person seeking to find housing to rent and the management of that property.

Housing, health and safety rating system (HHSRS) - a risk-based assessment for defining the risk to health safety of occupants and visitors from 29 defined hazards, e.g. excess cold, damp and mould, falls, etc. in residential property. The hazard is assessed, scored and banded between A to J.

Local Housing Allowance (LHA) this is the means tested benefit specifically relating to housing and replaced 'housing benefit' within the PRS.

Anti-Social Behaviour (ASB) - for discretionary licensing schemes affecting housing, this is conduct on the part of people living in, or visiting, residential premises a) which causes nuisance or annoyance to other people living in, or visiting, or otherwise engaged in lawful activities near the property, or b) which involves or is likely to involve the use of such premises for illegal purposes.

Fit and Proper Test - a legislatively defined test (section 66 of the Housing Act 2004 - <http://www.legislation.gov.uk/ukpga/2004/34/section/66>) test of a license's holder and any nominated manager's professional standards of conduct. Note. The Housing and Planning Act 2016 is due to amend these provisions, introducing further criteria and the Government are currently consulting on whether to make it a requirement on anyone proposing to hold a licence or be nominated as a manager to submit a criminal record check as part of the licence application process.

Shared house - a house rented by a group of unrelated people, typically students or young professionals, who live in it under one tenancy agreement and share its facilities but have their own bedrooms. Usually, if one of them leaves the remainder find someone to take his or her place.

Warrant – an authorisation given by a Justice of Peace to allow authorised officers to enter a property (by force if necessary) for defined purposes.

Enforced sale – a power that allows the Council to recover debts registered against the title of a property by forcing its sale.

Compulsory purchase – a power that allows the Council to purchase a property/land without the consent of the owner. There are various legislative powers that allow compulsory purchase in given circumstances.

Rent to Rent - a term used to describe a situation where a landlord lets to a tenant and the head tenant then sub-lets to their own tenants, often creating an HMO. The head tenant may or may not reside in the property and the landlord may or may not be aware of the sub-letting.

Injunctions - a judicial order restraining a person from beginning or continuing an action threatening or invading the legal right of another or compelling a person to carry out a certain act, e.g. to make restitution to an injured party.

Appendix 1 - Statement of Principles for the Issuing of Civil and Financial Penalties

Purpose

1. This statement sets out the principles that the Council will apply when considering the imposition of civil penalties under the following statutes:
 - I. The Smoke and Carbon Monoxide Alarm (England) Regulations 2015.
 - II. The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020
 - III. The Housing Act 2004 (as amended by the Housing and Planning Act 2016).
 - IV. The Housing and Planning Act 2016.
2. The Government has issued statutory and non-statutory guidance, which the Council will consider when deciding whether to issue civil/financial penalties.

Overarching Principles for Issuing a Civil/Financial Penalty

3. These principles are:
 - I. To lower or remove the risk to tenant's/occupant's health and safety.
 - II. To remove financial gain or benefit from non-compliance.
 - III. To protect the interests of the public.
 - IV. To penalise the perpetrator for the offence(s).
 - V. To change the behaviour of the perpetrator and to prevent future non-compliance.
 - VI. To dissuade others from offending.

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

4. This policy and appended statement of principles complies with regulation 13 of these Regulations.
5. The regulations make it a requirement to have smoke alarms in all private rented accommodation and carbon monoxide alarms where solid fuel combustion appliances exist. Landlords are required to ensure that all smoke and carbon monoxide alarms are in working order at the start of a tenancy.
6. For those premises that require a property licence the regulations amend statute to now make it a mandatory condition attached to a licence.
7. Note. The Council expect, as a minimum, either a mains powered smoke alarm or one operated with a sealed battery with a minimum 10-year life fitted on each floor to comply with the regulations. However, a landlord must consider the type and nature of the property being let and it may be necessary that a higher level of fire protection is required to satisfactorily protect the safety of the occupants. This is particularly relevant to HMOs, where a landlord is required to carry out a fire risk assessment. The licensing of HMOs will also require a higher level of protection and management. The Council recommends that landlord document and evidence their compliance with these regulations, e.g. dated and signed photographs/videos, a statement of testing signed by the tenant and landlord, etc.
8. Government figures submitted as part of the evidence supporting the introduction of the regulations state that a person is four times more likely to die from a fire in a property which does not have a

smoke detector in place. The installation of smoke detectors and carbon monoxide alarms does not place an excessive burden on a Landlord and the cost of doing so in any given property is unlikely to exceed £500 and, in many cases, far less for single household occupancy dwellings. However, the impact on safety for occupants is significant, especially those that are vulnerable, those that have a relevant disability, e.g. mobility, visual, etc. or those with families.

9. Before issuing a penalty, the Council must serve a remedial notice. Only if the landlord fails to comply with the notice, i.e. by installing the relevant detection within the prescribed time limit of 28 days, will the Council take measures to install the detection and then issue a penalty charge.
10. The maximum penalty that can be issued under these regulations is £5,000. Although this can represent an excessive financial burden on the landlord, this is entirely balanced by the risk to the occupants for not having the appropriate detection. This combined with the fact the landlord will have the opportunity to remedy the situation prior to the imposition of the penalty.
11. A Penalty Charge comprises two elements:
 - I. A punitive (or fine) element for failure to comply with the remedial notice, and
 - II. A “reasonable cost element” relating to costs incurred by the Council to undertake the remedial works in default of the landlord. This would include the cost of the works as well as the administration and officer costs.

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

12. The regulations put in place a number of duties. However, fundamentally the regulations are in place to ensure that the electrical installation of privately rented accommodation is up to standard and maintained. A landlord must have the electrical installation tested and a report issued and where necessary carry out any works required to bring the installation up to standard. There are also duties relating to providing copies of the installation report to relevant persons, such as existing and prospective tenants.
13. Under the Regulations the Council must serve a Remedial Notice where a landlord breaches their duties under these Regulations. The Council can also carry out works to remedy the breaches and recover the costs of doing so where the landlord fails to comply with a Remedial Notice. Where there are urgent works required to make the electrical installation safe the Council can undertake those works urgently and then seek recovery of the costs.
14. The Regulations allow the Council to consider the imposition of a financial penalty of up to £30,000 for any breach of the duties laid out in the Regulations.
15. In determining the amount of penalty the Council shall apply the criteria it uses for determining the level of penalty for civil penalties issued under the Housing Act 2004 and the Housing and Planning Act 2016, as laid out in section 5 of this Appendix, which includes discounts that would be applied.

Civil Penalties under the Housing Act 2004 and the Housing and Planning Act 2016

16. The Council may impose a Civil Penalty, as an alternative to prosecution, of up to a maximum of £30,000 in respect of the following offences:
 - Failure to comply with an Improvement Notice (Housing Act 2004).
Where there is a successful prosecution the courts can impose an unlimited fine.
 - Failure to licence or other licensing offences relating to HMOs (Housing Act 2004), which applies to both mandatory and additional HMO Licensing Schemes.
Where there is a successful prosecution the courts can impose an unlimited fine.

- Failure to comply with an Overcrowding Notice (Housing Act 2004).
Where there is a successful prosecution the courts can impose an unlimited fine.
 - Failure to comply with a regulation in respect of an HMO (Housing Act 2004).
Where there is a successful prosecution the courts can impose an unlimited fine.
 - Breaching a Banning Order (Housing and Planning Act 2016).
Where there is a successful prosecution the courts can impose an unlimited fine and up to 51 days imprisonment.
17. In setting the amount of the Civil Penalty the Council will have regard to statutory guidance.
 18. The level of penalty levied will reflect the severity of the offence and the offenders previous record of offending. The factors that guidance requires the Council to consider are:
 - a) Severity of the offence - The more serious the offence, the higher the penalty should be.
 - b) Culpability and track record of the offender - A higher penalty will be appropriate where the offender has a history of failing to comply with their obligations and/or their actions were deliberate and/or they knew, or ought to have known, that they were in breach of their legal responsibilities. Landlords are running a business and should be expected to be aware of their legal obligations.
 - c) The harm caused to the tenant - This is a very important factor when determining the level of penalty. The greater the harm or the potential for harm (this may be as perceived by the tenant), the higher the amount should be when imposing a Civil Penalty.
 - d) Punishment of the offender - A Civil Penalty should not be regarded as an easy or lesser option compared to prosecution. While the penalty should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending, it is important that it is set at a high enough level to help ensure that it has a real economic impact on the offender and demonstrate the consequences of not complying with their responsibilities.
 - e) Deter the offender from repeating the offence - The goal is to prevent any further offending and help ensure that the landlord fully complies with all their legal responsibilities in future. The level of the penalty should therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence.
 - f) Deter others from committing similar offences - While the fact that someone has received a Civil Penalty will not be in the public domain, it is possible that other landlords in the local area will become aware through informal channels when someone has received a Civil Penalty. An important part of deterrence is the realisation that (a) the local authority is proactive in levying civil penalties where the need to do so exists and (b) that the level of Civil Penalty will be set at a high enough level to both punish the offender and deter repeat offending.
 - g) Remove any financial benefit the offender may have obtained because of committing the offence - The guiding principle here should be to ensure that the offender does not benefit because of committing an offence, i.e. it should not be cheaper to offend than to ensure a property is well maintained and properly managed.
 19. Any decision to prosecute will be taken in accordance with the Regulatory Services Enforcement Policy and the Council's adopted Enforcement Policy (2007), the Regulators Compliance Code and the Code for Crown Prosecutors. Where an offence is particularly serious or where the offender has committed similar offences in the past it may be more appropriate to prosecute.
 20. Where the Council has determined that it would be appropriate to issue a civil penalty as an alternative to prosecution, the level of the penalty would be calculated having regard to the matrix set out below.
 21. Prosecutions and civil penalties can be imposed on landlords, or letting agents, or both.

Civil Penalty Calculation Matrix

22. Each offence receives its own civil penalty calculated on the matrixes below.

23. Penalties relating to housing conditions, management, licence conditions

24. A score for each of the five areas below is chosen depending on the seriousness of each area and reasons for each score must be accompanied by a full justification and production of relevant evidence.

Factors	Low Seriousness	Medium Seriousness	High Seriousness
1. Severity of offence	Score 5 Low level offence e.g. broken glazing (cat 2)	Score 15 Medium level offence e.g. defective boiler, no hot water (cat 1)	Score 25 Serious offence e.g. multiple management issues, inadequate/defective fire detection (imminent risk)
2. Deterrence & prevention	Score 5 High confidence a fine will deter repeat offending	Score 15 Medium confidence a fine will deter repeat offending	Score 25 Low confidence a fine will deter repeat offending
3. Harm to tenants	Score 5 Low level harm	Score 15 Moderate level harm	Score 25 High level harm
4. Size of business	Score 5 1 property	Score 15 2-5 properties	Score 25 6+ properties
5. History of offending	Score -5 First time offence	Score 5 Second time offence (previous FPN)	Score 10 Conviction in the Magistrates' Court (within previous 2 years)

Scores are added for each factor from the matrix above and the total score is then found on the chart below. The corresponding penalty on the chart below is the level of penalty to be incurred.

Penalties relating to failure to apply for a licence are calculated separately on the matrix below

Score	Penalty to be incurred	Score	Penalty to be incurred
15-20	£250	66-70	£14000
21-25	£500	71-75	£16000
26-30	£750	76-80	£18000
31-35	£1000	81-85	£20000
36-40	£2000	86-90	£22000
41-45	£4000	91-95	£24000
46-50	£6000	96-100	£26000
51-55	£8000	101-105	£28000
56-60	£10000	105-110	£30000
61-65	£12000		

Type of licensing scheme that applies	Penalty to be incurred
Mandatory 5+ tenants	£15000
Additional 4 or fewer tenants	£10000
Selective single family	£5000

Process for imposing a civil penalty and the right to make representations

25. Before imposing a financial penalty on a person or company, the Council will give the person or company notice of the authority's proposal to do so by service of a 'Notice of intent'.
26. A person or company who is given a notice of intent may make written representations to the Council about the proposal to impose a financial penalty. Any representations must be made within a 28-day period starting the day after the date on which the Notice of intent was given.
27. Representations should be addressed to the Private Sector Housing Enforcement Unit Manager either by email to resi@southwark.gov.uk or by post to Southwark Council, Regulatory Services, Private Sector Housing Enforcement, PO BOX 70063, London SE15 9EG
28. Representations will be reviewed by a panel consisting of the following council officers; a lawyer from the Litigation Division, a team leader and one senior manager from within the Environment and Leisure Department. The senior manager will also act as chair of the panel. The final decision of the panel will be sent, in writing, to the person(s) making the representation in the same manner as the representation was received (i.e. by email or post).
29. In the event of two or more persons receiving separate 'Notices of Intent' for the same matter, it should be noted that acceptance/payment of a civil penalty by one person will not negate the Council's intention to impose a civil penalty on the second or further persons. Each person served with the Notice of Intent is considered individually liable to pay the civil penalty notified to them. It is therefore important that any recipient of a Notice of Intent takes the opportunity to make representations should they consider for any reason a civil penalty should not be individually imposed upon them.
30. After the end of the period for representations the Council will:
 - a) Decide whether to impose a financial penalty on the person, and
 - b) If it decides to impose a financial penalty, decide the amount of the penalty
31. In the event that the Council has given Notice of Intent to impose a financial penalty to two or more persons for the same offence, the Council's decision as regards the imposition of any final penalty will be based upon the circumstances of each individual case and upon any received representations. In this regard, the payment or intended payment of a penalty by one recipient will not, in itself, be reason for the Council to determine that it should not impose a penalty on a second or further person.
32. If the Council decides to impose a financial penalty on the person or company, it will give the person or company a final notice imposing that penalty.
 - a) The final notice will set out:
 - b) The amount of the financial penalty,
 - c) The reasons for imposing the penalty,
 - d) Information about how to pay the penalty,
 - e) The period for payment of the penalty,
 - f) Information about rights of appeal, and
 - g) The consequences of failure to comply with the notice

Right of Appeal

33. Following service of a final notice, a landlord may appeal to the First-tier Tribunal. Appeals should be made within 28 days from the date the response to the representation is served. Where a landlord

appeals to the First-tier Tribunal, the operation of the penalty charge notice is suspended until the appeal is finally determined or withdrawn.

Reduction in Penalty

34. If the offender complies with the identified offence within the representation period following service of the 'Notice of Intent' (28 days), the Council will consider a reduction of 20% of the intended civil penalty, to be applied in the 'Final Notice'.
35. If the offender pays the penalty, following the 'Final Notice' a discount of 20% will be applied.
36. Both discounts above can be applied where appropriate.

Recovery

37. Where the Civil Penalty is not paid the Council will seek to recover the amount (and any legal costs for doing so) through the County Court.

Appendix 3 – Equality Impact Assessment - Regulatory Services Enforcement Policy

Section 1: Equality analysis details

Proposed policy/decision/business plan to which this equality analysis relates	Reviewed - Regulatory Services Enforcement Policy
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Equality analysis author	Emma Trott, Private Sector Housing Enforcement & Licensing Unit Manager		
Strategic Director:	Caroline Bruce		
Department	Environment & Social Regeneration	Division	Regulatory Services
Period analysis undertaken	March 2021		

Section 2: Brief description of policy/decision/business plan

1.1 Brief description of policy/decision/business plan

The Council carries out a number of enforcement activities. Enforcement Policies provide a structured basis for services to carry out their enforcement functions and provides members of the public and those subject to enforcement with a transparent policy on how the Council will carry out its enforcement functions.

This EIA covers the Regulatory Services Enforcement Policy. This document provides an overarching policy for the services sitting within the Regulatory Services Division. The purpose of the policy is to provide a consistent, correct, efficient and effective approach to making regulatory enforcement decisions. It also serves to communicate Southwark Council's policy towards addressing non-compliance with regard to the legislation that is enforced.

The Council uses a range of activities to ensure compliance with the legislation it enforces. These include:

- Site visits, inspections and patrols
- Acting on intelligence received
- Carrying out investigations
- Serving legal notices to effect a stop, a change, a restriction or an improvement
- Issuing financial penalties
- Giving formal warnings, conditional cautions and simple cautions
- Injunctive actions, byelaws and temporary powers
- Giving informal advice, including education & awareness programmes
- Carrying out test purchases, seizure, sampling and analysis
- Licensing and Permits
- Prosecutions

The decision maker is Cabinet.

Section 3: Overview of service users and key stakeholders to be consulted

2. Service users and stakeholders

<p>Key users of the department or service</p>	<p>The Policy covers the following functions:</p> <ul style="list-style-type: none"> • Planning Enforcement • Building Control • Property Services • Community Wardens, Environmental Enforcement, CCTV & Divisional Analytical Business Service (DABS) • Trading Standards, Health & Safety, Food Safety and Environmental Protection • Private Sector Housing Enforcement • Noise & Nuisance, Licensing and SASBU) • Highways Licensing & Enforcement <p>Therefore the users and stakeholders are broad and to surmise would cover:</p> <ul style="list-style-type: none"> • Residents of Southwark regardless of tenure. • Visitors to Southwark, for leisure or business. • Business owners and managers in its widest sense. • Partner Enforcement Agencies, e.g. blue light services, HMRC, Immigration Services, etc. • Charitable and other advice services, e.g. Citizens Advice Bureau (CAB), the Leasehold Advisory Service (LEASE), etc. • Internal support Services, e.g. Legal services
<p>Key stakeholders were/are involved in this policy/decision/business plan</p>	<p>Officers of:</p> <ul style="list-style-type: none"> • Community Warden Service, Environmental Enforcement, CCTV & Divisional Analytical Business Service (DABS) • Commercial Services (Trading Standards, Health & Safety, Food Safety and Environmental Protection • Private Sector Housing Enforcement • Neighbourhood Nuisance Services (Noise & Nuisance, Licensing and SASBU) • Legal Services • Finance & Governance

Section 4: Pre-implementation equality analysis

Age – Where this is referred to, it refers to a person belonging to a particular age (e.g. 32 year olds) or range of ages (e.g. 18 - 30 year olds).

Potential impacts (positive and negative) of proposed policy/decision/business plan

In general enforcement action carried out by the Council is age neutral and would not specifically target any particular age group. In general enforcement action is taken against adults.

Enforcement action, in general, aims to have direct positive improvements on peoples, health, safety and welfare, e.g. in ensuring homes are safe, food is safe to eat, places of business are safe to work in/enter, etc.

However, some limited enforcement action can be applied to minors, e.g. when dealing with Anti-Social Behaviour. Where a Service covered by this policy is empowered with enforcement action that can be used against minors that service will specifically cover the use of the power in their service specific policy.

The Regulatory Services Policy recognises and addresses the use of enforcement against minors and sets out what will be done to ensure the impact is proportionate, correct and reasonable. As a guiding principle across all services, no enforcement action will be taken against any minor without full consultation with the Council's Children's Services.

In addition the Policy recognises the risk of child sexual exploration (CSE). Although the services empowered under this policy don't have powers that directly impact CSE it sets out how this will be dealt with when officers suspect or have direct evidence of CSE it in carrying out their functions.

Equality information on which above analysis is based

Census Data, MHCLG data, Anecdotal evidence.

Mitigating actions to be taken

Where this overarching policy is likely to have an impact on people in relation to their age it has been addressed, e.g. enforcement against minors. Actions:

- As a guiding principle across all services, no enforcement action will be taken against any minor without full consultation with the Council's Children's Services.
- Service specific polices will directly deal with situations where they have powers that might or will impact a specific age group.
- This Policy will underpin enforcement activity and all officers will be trained on it and will be expected to refer to it in relation to their duties.

Disability – A person has a disability if they have a physical or mental

impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.

Possible impacts (positive and negative) of proposed policy/decision/business plan

In general enforcement action carried out by the Council is neutral to disability and would not specifically target any disability group.

Enforcement action, in general aims to have direct positive improvements on peoples, health, safety and welfare, e.g. in ensuring homes are safe, food is safe to eat, places of business are safe, etc.

Some enforcement activity is directly targeted at ensuring facilities provided for persons with disabilities are protected. An example of this would be enforcement against the use disabled parking bays by persons without a disability.

However, certain enforcement limited enforcement action can be directed at persons with certain disabilities. An example of this would be the use of powers to address premises that are hoarded or filthy and verminous. It is known that persons hoarding or living in filthy and verminous conditions are likely to have a mental health disability.

However, it might be that a person with a disability is the recipient of enforcement action, e.g. a landlord or employer, this disability could be physical, or mental

The Regulatory Services Policy recognises and addresses the use of enforcement against persons with disability and has developed a protocol that directly addresses the management of enforcement action for vulnerable people.

Equality information on which above analysis is based

Census data

[What is hoarding? | Mind](#)

[Regulators' Code - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

Mitigating actions to be taken

Actions:

- Information, including the Policy will be made available in accessible formats online.
- Where required the Policy or correspondence and enforcement actions taken can be made available in appropriate formats, e.g. braille, etc.
- Any action taken by any of the services sitting within the scope of this

policy will have regard to the Management of Enforcement Action for Vulnerable People Protocol.

- This Policy will underpin enforcement activity and all officers will be trained on it and will be expected to refer to it in relation to their duties.

Gender reassignment – The process of transitioning from one gender to another.

Possible impacts (positive and negative) of proposed policy/decision/business plan

Enforcement action carried out by the Council is neutral to gender reassignment.

However, when enforcement action is taken, permits or licences issued it is incumbent on the Council to ensure that the official documents, such as enforcement Notices, a licence, etc. are correctly addressed to the correct person. This can have an unwanted impact on people that are undergoing gender reassignment. An example of this would be someone who has yet to have their official documentation, such as passport details, property ownership details, changed. The Council would be legally required to address the document to the person named on official documentation.

It may also be the case that someone who has undergone gender reassignment and has had their official documentation changed and request that certain documentation be updated to reflect this, e.g. a change in name.

Equality information on which above analysis is based.

Census Data, MHCLG data, Anecdotal evidence.

Mitigating actions to be taken

Actions:

Where an investigation discovers or the relevant person informs us, that the name given and the name on official documentation differ and the difference relates to gender reassignment then:

- Officers will deal with the matter sensitively and with compassion, whilst clearly explaining why only the official name can be used for certain legal documentation.
- Where it is possible to do so other correspondence will use the name/gender preferred and given by the person.

Where an individual having undergone gender reassignment requests that certain documentation be changed to reflect their name, and it is in the Council's power to do so, we will:

- Deal with the matter sensitively and with compassion.
- Explain how the process will be handled and what the person can expect to happen.
- Change the documentation and provide the changed documents to the individual and, where necessary, notify other relevant parties of the change.

Officers will be trained on what the Council expects of them in these situations.

Marriage and Civil Partnership – In England and Wales marriage is no longer restricted to a union between a man and a woman but now includes a marriage between a same-sex couple. Same-sex couples can also have their relationships legally recognised as 'civil partnerships'. Civil partners must not be treated less favorably than married couples and must be treated the same as married couples on a wide range of legal matters. **(Only to be considered in respect to the need to eliminate discrimination).**

Possible impacts (positive and negative) of proposed policy/decision/business plan

Enforcement action, in general aims to have direct positive improvements on peoples, health, safety and welfare, e.g. in ensuring homes are safe, food is safe to eat, places of business are safe, etc.

No evidence or data to suggest that the Policy would have any marriage/civil partnership related impact or related employment issues for this specific group.

Equality information on which above analysis is based

Census Data, MHCLG data, Anecdotal evidence.

Mitigating actions to be taken

N/A

Pregnancy and maternity – Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavorably because she is breastfeeding.

Possible impacts (positive and negative) of proposed policy/decision/business plan

Enforcement action, in general aims to have direct positive improvements on peoples, health, safety and welfare, e.g. in ensuring homes are safe, food is safe to eat, places of business are safe, etc.

No evidence or data to suggest that the Policy would have any negative impacts for this specific group.

Equality information on which above analysis is based

Census Data, MHCLG data, Anecdotal evidence.

Mitigating actions to be taken

N/A

Race – Refers to the protected characteristic of Race. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.

Possible impacts (positive and negative) of proposed policy/decision/business plan

Enforcement action, in general aims to have direct positive improvements on peoples, health, safety and welfare, e.g. in ensuring homes are safe, food is safe to eat, places of business are safe, etc.

Southwark has diverse communities and cultures. There is therefore a strong likelihood that there will be issues around understanding of legislation, cultural and language barriers, where someone's first language is not English, etc.

Equality information on which above analysis is based

Census Data, MHCLG data, Anecdotal evidence.

Mitigating actions to be taken

Actions:

- We will continue to ensure translation/interpretation services are available where needed.
- We will ensure that web content is accessible, consistent and in plain English to assist on-line translation tools to be used.

Religion and belief – Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition.

Possible impacts (positive and negative) of proposed policy/decision/business plan

Enforcement action, in general aims to have direct positive improvements on peoples, health, safety and welfare, e.g. in ensuring homes are safe, food is safe to eat, places of business are safe, etc.

No evidence or data to suggest that the Policy would have any negative impacts for this group of people.

Equality information on which above analysis is based

Census Data, MHCLG data, Anecdotal evidence.

Mitigating actions to be taken

N/A

Sex – A man or a woman.

Possible impacts (positive and negative) of proposed policy/decision/business plan

Enforcement action, in general aims to have direct positive improvements on peoples, health, safety and welfare, e.g. in ensuring homes are safe, food is safe to eat, places of business are safe, etc.

No evidence or data to suggest that the Policy would have any negative impacts for this group of people.

Equality information on which above analysis is based

Census Data, MHCLG data, Anecdotal evidence.

Mitigating actions to be taken

N/A

Sexual orientation – Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes

Possible impacts (positive and negative) of proposed policy/decision/business plan

Enforcement action, in general aims to have direct positive improvements on peoples, health, safety and welfare, e.g. in ensuring homes are safe, food is safe to eat, places of business are safe, etc.

No evidence or data to suggest that the Policy would have any negative impacts for this group of people.

Equality information on which above analysis is based

Census Data, MHCLG data, Anecdotal evidence.

Mitigating actions to be taken

N/A

<p>Human Rights – There are 16 rights in the Human Rights Act. Each one is called an Article. They are all taken from the European Convention on Human Rights. The Articles are The right to life, Freedom from torture, inhuman and degrading treatment, Freedom from forced labour , Right to Liberty, Fair trial, Retrospective penalties, Privacy, Freedom of conscience, Freedom of expression, Freedom of assembly, Marriage and family, Freedom from discrimination and the First Protocol</p>
<p>Possible impacts (positive and negative) of proposed policy/decision/business plan</p>
<p>Enforcement action, in general aims to have direct positive improvements on peoples, health, safety and welfare, e.g. in ensuring homes are safe, food is safe to eat, places of business are safe, etc.</p> <p>Southwark is a public authority for the purposes of the Human Rights Act 1998. We therefore apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms. This Policy and all associated enforcement decisions take account of the provisions of the Human Rights Act 1998. In particular, due regard is had to the right to a fair trial and the right to respect for private and family life, home and correspondence. For clarity and transparency this is directly referenced in the Policy.</p> <p>No evidence or data to suggest that the Policy would have any negative impacts.</p>
<p>Information on which above analysis is based</p>
<p>The Human Rights Act, Census Data, MHCLG data, Anecdotal evidence, Regulators Code.</p>
<p>Mitigating actions to be taken</p>
<p>N/A</p>

Section 5: Further actions and objectives

5. Further actions			
Based on the initial analysis above, please detail the key mitigating actions or the areas identified as requiring more detailed analysis.			
Number	Description of issue	Action	Timeframe

5. Equality objectives (for business plans)				
Based on the initial analysis above, please detail any equality objectives that you will set for your division/department/service. Under the objective and measure column please state whether this objective is an existing objective or a suggested addition to the Council Plan.				
Objective and measure	Lead officer	Current performance (baseline)	Targets	
			2022/23	2024/25
Monitoring equality outcomes from the work of Regulatory Services Division	Head of Regulatory Services	None	Ongoing data collection	Ongoing data collection
Reporting on outcomes of monitoring at the Divisional Department Meetings on a quarterly basis.	Head of Regulatory Services	None	Ongoing Quarterly Reporting	Ongoing Quarterly Reporting
Action planning as required	Head of Regulatory Services	None	As required from monitoring and reporting	As required from monitoring and reporting

Appendix 4 – Equality Impact Assessment - Private Sector Housing - Enforcement Policy

Section 1: Equality analysis details

Proposed policy/decision/business plan to which this equality analysis relates	Reviewed - Private Sector Housing - Enforcement Policy
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Equality analysis author	Emma Trott, Private Sector Housing Enforcement & Licensing Unit Manager		
Strategic Director:	Caroline Bruce		
Department	Environment Social Regeneration	&	Division Regulatory Services
Period analysis undertaken	March 2021		

Section 2: Brief description of policy/decision/business plan

1.1 Brief description of policy/decision/business plan

The Private Sector Housing Enforcement & Licensing Service sets out to ensure that legally compliant standards of housing conditions are maintained in privately owned residential property, including housing matters arising from privately owned land.

The service's functions include; the licensing and proper management of houses in multiple occupation (HMOs), the licensing and proper management of privately rented homes, enforcement of the housing, health and safety rating system, overcrowding, public health matters and associated/related provisions. The services functions reflect the Council's statutory duties and are in-line with the Council's corporate objectives and associated strategies.

This EIA covers - the Private Sector Housing - Enforcement Policy. This is a service specific policy that sits beneath the overarching Regulatory Services Enforcement. The purpose of the policy is to provide a consistent, correct, efficient and effective approach to making regulatory enforcement decisions. It also serves to communicate the policy of the Private Sector Housing Enforcement & Licensing Service towards addressing non-compliance with regard to the legislation that it enforces.

The Private Sector Housing Enforcement & Licensing Service uses a range of activities to ensure compliance with the legislation it enforces. These include:

- Site visits and inspections
- Acting on intelligence received
- Carrying out investigations
- Serving legal notices to effect a stop, a change, a restriction or an improvement
- Issuing financial penalties
- Giving formal warnings, conditional cautions and simple cautions
- Giving informal advice, including education & awareness programmes
- Prosecuting
- Licensing

The decision maker is Cabinet.

Section 3: Overview of service users and key stakeholders to be consulted

2. Service users and stakeholders	
Key users of the department or service	<p>The users and stakeholders are surmised to be:</p> <ul style="list-style-type: none"> • Residents of Southwark regardless of tenure. • Property Managing Agents • Landlords (freeholders and leaseholders) • Tenants of private sector housing • Business owners and managers in its widest sense. • Partner Enforcement Agencies, e.g. blue light services, HMRC, Immigration Services, etc. • Charitable and other advice services, e.g. Citizens Advice Bureau (CAB), the Leasehold Advisory Service (LEASE), etc. • Internal support Services, e.g. Legal services
Key stakeholders were/are involved in this policy/decision/business plan	<p>Officers of:</p> <ul style="list-style-type: none"> • Private Sector Housing Enforcement • London Fire Brigade • Trading Standards • Finance & Governance • Legal Services

Section 4: Pre-implementation equality analysis

Age - Where this is referred to, it refers to a person belonging to a particular age (e.g. 32 year olds) or range of ages (e.g. 18 - 30 year olds).
Potential impacts (positive and negative) of proposed policy/decision/business plan
<p>In general enforcement action carried out by the Private Sector Housing Enforcement & Licensing Service is age neutral and would not specifically target any particular age group. Enforcement action is always taken against adults.</p> <p>Enforcement action, in general aims to have direct positive improvements on peoples, health, safety and welfare, e.g. in ensuring homes are safe, nuisance minimised, property licensed, rental businesses are compliant, etc.</p> <p>Specifically, elderly persons and persons under 16 are taken into account when forming a risk assessment of property. If either is present, a higher risk level may be awarded on the basis of vulnerability.</p> <p>No evidence or data to suggest that the Policy would have any negative impacts on people in relation to their age.</p>

Equality information on which above analysis is based
Census Data, MHCLG data, Anecdotal evidence, Housing Act 2004 HHSRS data.
Mitigating actions to be taken
N/A

Disability - A person has a disability if s/he has a physical or mental impairment which has a substantial and long-term adverse effect on that person's ability to carry out normal day-to-day activities.

Possible impacts (positive and negative) of proposed policy/decision/business plan

In general enforcement action carried out by the Private Sector Housing Enforcement & Licensing Service is neutral to disability.

Enforcement action, in general aims to have direct positive improvements on peoples, health, safety and welfare, e.g. in ensuring homes are safe, nuisance minimised, property licensed, rental businesses are compliant, etc.

Some enforcement activity is directly targeted at ensuring facilities provided for person with disabilities are protected. An example of this would be Licensing which takes into consideration whether any occupants of a licensable property would be considered vulnerable, whether in terms of disability, age, etc. This is to ensure that no works asked for or conditions applied to the licence will have an adverse impact on persons with disabilities, e.g. creating a means of escape that may adversely affect someone with a disability to evacuate safely.

However, powers to address premises that are hoarded or filthy and verminous can be directed at persons with a mental health disability. These powers seek to reduce the risk the hoarding and build ups have on the occupants and their neighbours.

it might be that a person with a disability is the recipient of enforcement action, this could be a physical, e.g. blindness or mental disability, e.g. someone with limited mental capacity.

The overarching Regulatory Services Policy recognises and addresses the use of enforcement against persons with disability and has developed a protocol that

directly addresses the management of enforcement action for vulnerable people. This protocol will be used in all instances where action taken directly impacts someone with a disability.

Equality information on which above analysis is based

Census Data, MHCLG data, Anecdotal evidence, Housing Act 2004 HHSRS data.

[What is hoarding? | Mind](#)

[Regulators' Code - GOV.UK \(www.gov.uk\)](#)

Mitigating actions to be taken

Actions:

- Information, including the Policy will be made available in an accessible format online.
- Where required the Policy or correspondence and enforcement actions taken can be made available in appropriate formats, e.g. braille, etc.
- Action taken to deal with hoarding or filthy and verminous premises by the Private Sector Housing Enforcement & Licensing Service will be done in line with the Management of Enforcement Action for Vulnerable People Protocol.
- This Policy will underpin enforcement activity and all officers will be trained on it and will be expected to refer to it in relation to their duties.

Gender reassignment - The process of transitioning from one gender to another.

Possible impacts (positive and negative) of proposed policy/decision/business plan

Enforcement action carried out by the Council is neutral to gender reassignment.

However, when enforcement action is taken or licences issued, it is incumbent on the Private Sector Housing Enforcement & Licensing Service to ensure that the official documents, such as enforcement Notices, a licence, are correctly addressed to the correct person. This can have an unwanted impact on people that are undergoing gender reassignment. An example of this would be someone who has yet to have their official documentation, such as passport details, property ownership details, changed. The Private Sector Housing Enforcement & Licensing Service would be legally required to address the document to the person named on official documentation.

It may also be the case that someone who has undergone gender reassignment and has had their official documentation changed and request that certain

documentation be updated to reflect this, e.g. a change in name.

Equality information on which above analysis is based.

Census Data, MHCLG data, Anecdotal evidence, Housing Act 2004 HHSRS data..

Mitigating actions to be taken

Actions:

Where an investigation discovers or the relevant person informs us, that the name given and the name on official documentation differs and the difference relates to gender reassignment then:

- Officers will deal with the matter sensitively and with compassion, whilst clearly explaining why only the official name can be used for certain legal documentation.
- Where it is possible to do so other correspondence will use the name given by the person.

Where an individual having undergone gender reassignment requests that certain documentation be changed to reflect their name, and it is in the Council's power do so, we will:

- Deal with the matter sensitively and with compassion.
- Explain how the process will handled and what the person can expect to happen.
- Change the documentation and provide the changed documents to the individual and where necessary notify other relevant parties of the change.

Officers will be trained on what the Council expects them of them in these situations.

Marriage and Civil Partnership - In England and Wales marriage is no longer restricted to a union between a man and a woman but now includes a marriage between a same-sex couple. Same-sex couples can also have their relationships legally recognised as 'civil partnerships'. Civil partners must not be treated less favorably than married couples and must be treated the same as married couples on a wide range of legal matters. **(Only to be considered in respect to the need to eliminate discrimination).**

Possible impacts (positive and negative) of proposed policy/decision/business plan
<p>Enforcement action, in general aims to have direct positive improvements on peoples, health, safety and welfare, e.g. in ensuring homes are safe, nuisance minimised, property licensed, rental businesses are compliant, etc.</p> <p>No evidence or data to suggest that the Policy would have any marriage/civil partnership related impact or related employment issues for this group of people.</p>
Equality information on which above analysis is based
Census Data, MHCLG data, Anecdotal evidence, Housing Act 2004 HHSRS data.
Mitigating actions to be taken
N/A

Pregnancy and maternity - Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating a woman unfavorably because she is breastfeeding.
Possible impacts (positive and negative) of proposed policy/decision/business plan
<p>Enforcement action, in general aims to have direct positive improvements on peoples, health, safety and welfare, e.g. in ensuring homes are safe, nuisance minimised, property licensed, rental businesses are compliant, etc.</p> <p>Specifically, licensing and enforcement of housing conditions will take into consideration whether any occupants would be considered vulnerable and take measures to mitigate the risks to health and safety. Specific risks to this group would be personal hygiene, food safety and slips, trips and falls.</p> <p>No evidence or data to suggest that the Policy would have any negative impacts for this group of people.</p>
Equality information on which above analysis is based
Census Data, MHCLG data, Anecdotal evidence, Housing Act 2004 HHSRS data.
Mitigating actions to be taken

N/A

Race - Refers to the protected characteristic of Race. It refers to a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins.

Possible impacts (positive and negative) of proposed policy/decision/business plan

Enforcement action, in general aims to have direct positive improvements on peoples, health, safety and welfare, e.g. in ensuring homes are safe, nuisance minimised, property licensed, rental businesses are compliant, etc.
--

Southwark has diverse communities and cultures. There is therefore a strong likelihood that there will be issues around understanding of legislation, language barrier, etc. where someone's first language is not English.

Equality information on which above analysis is based
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Census Data, MHCLG data, Anecdotal evidence, Housing Act 2004 HHSRS data.

Mitigating actions to be taken

Actions:

- | |
|--|
| <ul style="list-style-type: none"> • We will continue to ensure translation/interpretation services are available where needed. • We will ensure that web content s accessible, consistent and in plain English. |
|--|

Religion and belief - Religion has the meaning usually given to it but belief includes religious and philosophical beliefs including lack of belief (e.g. Atheism). Generally, a belief should affect your life choices or the way you live for it to be included in the definition.

Possible impacts (positive and negative) of proposed policy/decision/business plan

Enforcement action, in general aims to have direct positive improvements on peoples, health, safety and welfare, e.g. in ensuring homes are safe, nuisance minimised, property licensed, rental businesses are compliant, etc.
--

No evidence or data to suggest that the Policy would have any negative impacts for this group of people.

Equality information on which above analysis is based

Census Data, MHCLG data, Anecdotal evidence, Housing Act 2004 HHSRS data..

Mitigating actions to be taken

N/A

Sex - A man or a woman.

Possible impacts (positive and negative) of proposed policy/decision/business plan

Enforcement action, in general aims to have direct positive improvements on peoples, health, safety and welfare, e.g. in ensuring homes are safe, nuisance minimised, property licensed, rental businesses are compliant, etc.

No evidence or data to suggest that the Policy would have any negative impacts for this group of people.

Equality information on which above analysis is based

Census Data, MHCLG data, Anecdotal evidence, Housing Act 2004 HHSRS data.

Mitigating actions to be taken

N/A

Sexual orientation - Whether a person's sexual attraction is towards their own sex, the opposite sex or to both sexes

Possible impacts (positive and negative) of proposed policy/decision/business plan

Enforcement action, in general aims to have direct positive improvements on peoples, health, safety and welfare, e.g. in ensuring homes are safe, nuisance minimised, property licensed, rental businesses are compliant, etc.

No evidence or data to suggest that the Policy would have any negative impacts for this group of people.

Equality information on which above analysis is based

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Human Rights

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No evidence or data to suggest that the Policy would have any negative impacts.

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The Human Rights Act, Census Data, MHCLG data, Anecdotal evidence, Regulators Code, Housing Act 2004 HHSRS data.
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N/A

Section 5: Further actions and objectives

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Action planning as required	Private Sector Housing Enforcement & Licensing Unit Manager	None	As required from monitoring and reporting	As required from monitoring and reporting

Air quality scrutiny review report - part two

Environment Scrutiny Commission
July 2021 **APPENDIX A**

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Executive Summary

This report summarises the Commission's investigation into improvement measures of air quality in Southwark. This report builds on initial findings and observations from the commission last year, which highlighted that whilst children, older people and those with respiratory conditions are vulnerable to man-made air pollution; poor air quality impacts everyone over the course of their life.

This report recognises that the need for traffic reducing measures to be implemented in a way that equitable and fair for all. The report also looks at the need for the council and GLA to carefully monitor and track its measures to reduce and mitigate transport emissions in Southwark.

Overall, it is critical that work is done with health partners, businesses, community groups and residents to ensure that measures introduced to improve air quality are done in parallel with measures to encourage a broader demographic to take up more walking and cycling.

Summary of Recommendations

Recommendation One

The framework to evaluate the Low Traffic Neighbourhoods (LTNs) ought to be provided in full to scrutiny to review, and this ought to summarise work with the Emergency Services. Including a section evaluating London Ambulance Service (LAS) preference for cameras informed by an analysis of the impact of LTNs on emergency vehicles response times, different barrier options, and mitigations.

Recommendation Two

When evaluating LTNs the council ought to measure footfall on high streets, where it is possible to establish a baseline. The council also ought to outline work undertaken with traders to ensure that any difficulties (e.g. receiving supplies) are addressed and that the opportunity to maximize footfall and support the local economy is delivered.

Longer term the council ought to conduct a longitudinal study with a health partner such as King's College Hospital or Guy's and St Thomas' Hospital NHS Foundation Trust looking at the long-term impact of LTNs on the health of residents.

Recommendation Three

The Council should conduct an analysis of schools that might be more disproportionately impacted by air pollution compared to other schools (looking in particular at schools with higher proportions of students on free school meals or with students that have English as a Second Language).

Where these schools are on main roads, the analysis should identify actions that can a) be tied in with the Low Traffic Southwark strategy to reduce traffic on those main roads and b) mitigate the impact of that traffic in and around the school itself.

More generally and in the longer term strategies are required to build on School Streets and to ensure that walking and cycling are increasingly built into the whole journey to school as part of the Movement Plan and that the number of and proportion of driven journeys are continually being reduced.

Recommendation Four

Focus on increasing PTAL in regeneration areas and where levels are low, e.g. the south of the borough, in order to reduce parking levels in new developments as close to zero as is possible

Recommendation Five

There is evidence of a far broader demographic being attracted to cycling during the pandemic as traffic levels have fallen. Targeted work is needed with women, low income, older people, disabled people, children and young people and some Black, Asian and Minority Ethnic communities to understand the barriers to participation and the actions that will increase cycling rates, including ensuring the wider cycling infrastructure is inclusive.

Recommendation Six

Work with Business Improvement Districts to deliver Nests to enable hubs to receive, and then deliver the 'last mile' of online shopping by e cargo bikes.

Follow up on Recommendation 15 of the Air Quality report and understand how sustainable freight is being worked into other Southwark strategies including the Movement Plan, as part of regeneration schemes and if the council is using sustainable freight for in-house services, where possible.

Recommendation Seven

Implement a pilot e cargo hire scheme in 2022, once the current focus on LTNs and school streets is embedded, and we are firmly in recovery from the pandemic.

Recommendation Eight

The commission recommends that once the LTN review is completed that more time is given over to responding to each of the commission's previous recommendations (from the first Air quality report) and that officers and cabinet leads return to the commission with a detailed operational plan outlining how Low Traffic Southwark will be delivered and provide a full response to the below:

- 1) Develop an operational plan with partners to implement the Movement Plan, focusing on structural changes, informed by the ambitions of the Movement Plan and its associated deprivation data.
- 2) Viability testing of the target to reduce traffic by 90% by 2030
- 3) End the current diesel contract for Southwark fleet vehicles and switch to EV as soon as possible. Swap EV for sustainable transport / freight. Revisit our procurement strategy to ensure subcontractors have EV or a sustainable fleet. Set a cut-off date for compliance so that subcontractors have time to make the switch. (Marked to be considered in the cabinet response to the first report)
- 4) Southwark adopts a maximum charge for bike hubs/hangers that ensures that it is cheaper than car parking by space (marked to be considered in the cabinet response to the first report)
- 5) An update on charging for parking in the borough including the development and implementation of the emissions based charging policy and if this will include reductions in car parking provision. The commission recommended that this policy looks at the parameters of vehicle size, fuel, and multiple vehicles per house.

6) A borough-wide greenery programme to use native hedges to screen to against air pollution, ecological planting and also improve the environment and place making. Examples include allotments and wildlife sanctuaries. (Marked to be considered in the cabinet response to the first report) In addition, the commission would like to see a focus on more ecologically friendly maintenance of housing estates, including less mowing of grassy banks and verges. Green waste also ought to be converted to compost, see Earth Cycle¹.

¹ <https://earthcycle.co.uk/about>

Introduction

This is the second report on Air Quality, following on from the first Air Quality report, completed in July 2020, by the previous iteration of Southwark Council's Environment Scrutiny Commission. This was a substantive report, with 20 recommendations, developed over a longer than usual administrative year, because of the pandemic. The overriding aim of the first air quality report was to deliver a reduction in overall traffic, and thus reduce one of the main sources of air pollution, with the added benefit of delivering a greener and safer borough.

This administrative year has been shorter than usual, and the main focus of this review has been to track the recommendations of the first Air Quality report, both the ones that are now being implemented, and ensuring that all the recommendations made last year are given due consideration.

Covid-19 has made the implementation of the recommendations much more challenging as traffic has become more unpredictable, public transport use has been negatively impacted by the risk of contagion, and officers, and other partners, have been stretched by the demands of the pandemic. However, the pandemic has also seen central and London government funding orientated towards schemes promoting active travel, and the transformative experience of London virtually free of traffic in spring 2020. Many more people are taking up cycling, walking, and spending much more time in our local communities, allowing us to reimagine the city.

Review Scope

The following objectives for the review were identified at the start of the year. The primary focus has been on the first two, due to the limited time available:

- i. Effective implementation of Low Traffic Neighbourhoods (LTN), by the council and partners, to ensure that they deliver better air quality for all Southwark residents, particularly those residents most at risk from the adverse impacts of poor air quality (children, Black, Asian and Minority Ethnic residents, older residents, disabled residents, residents living in deprivation etc.)
- ii. Tracking additional council and TFL measures to reduce and mitigate transport emissions in Southwark.
- iii. Making recommendations to the council and relevant partners in order to reduce other sources of air pollution, not covered in depth by the previous scrutiny review on Air Quality in 2019/20

Evidence Received

All meetings were held online due and attendance was via video conferencing. The following officers, members and partners gave evidence:

- Guy's and St Thomas Trust Charity (GSTTC) – who are part funding Southwark's LTNs, attended to set out the aims of the schemes.
- Cabinet leads Cllr Catherine Rose, Cabinet Member for Leisure, Environment & Roads and Cllr Radha Burgess, Deputy Cabinet Member for Low Traffic Southwark attended twice
- Highways and planning policy officers gave regular evidence.
- GLA transport policy officers attended once for a focused session.

Themes

Greater London Authority's Work on Transport and Air Quality

The GLA evidence to the commission covered reports published on inequalities that found that deprived populations, including Black, Asian and Minority Ethnic residents are more likely to be exposed to higher pollution. The ULEZ is designed to drive down large-scale pollution; particularly NO₂. The GLA referenced independent research that indicated that the ULEZ would reduce pollution by 71% and 81 % for deprived and Black, Asian and Minority Ethnic populations, respectively. The ULEZ will not equalize differences between populations but it will help with health inequalities.

The Mayor's Climate Emergency target of net zero by 2030 means there will be a need to reduce car journeys by 60%. As part of this, the GLA is looking at road pricing, however no decision has been made yet. The Mayor's aim is that by 2040 80% of journeys will be by a sustainable mode; currently it is 40%.

The previous Air Quality Review recommended lobbying the GLA to introduce Road User Charging as a matter of urgency, citing the Centre for London July 2018 report on Road User Charging, showing that road user charging is the most equitable way to allocate the use of road space across London. In response to the above recommendation the cabinet has said that it supports the consideration of the use of road user charging and has undertaken to continue to lobby the Mayor and GLA.

In response to the need to encourage much more walking and cycling in London the Mayor and TfL released the Mayor's London Streetspace Plan (LSP), which is focused on Low Traffic Neighbourhoods for residential streets, expanding the cycle network and improvements to walking and cycling in Town Centers.

Effective Implementation of Low Traffic Neighbourhood (LTN)

Last year one of the main recommendations of the Commission was that Low Traffic Neighbourhoods be delivered across Southwark, starting with areas with the highest levels of public transport, worse air quality and most vulnerable populations. The report cautioned that any risk of displacement of traffic onto main roads by Low Traffic Neighbourhoods must be complimented by measures to prevent this and ensure air quality is carefully monitored as our communities live, work, and go to school on both side roads and main roads. The review recommendations were inspired by learning from Waltham Forest Mini Holland schemes, which the GLA also commended as one of the best examples, when they gave evidence to the Commission in March 2020, saying that after some initial concerns local people are enthused by these.

The previous Air Quality report made specific recommendations on the introduction of a borough wide programme of Low Traffic Neighbourhoods, recommending these should be implemented:

- Over a wide enough area in order to realise the benefits of traffic evaporation, which has been shown to take place when there is a significant reduction of short journeys by car under 2km.
- As a priority in areas with high levels of public transport (high PTAL ratings), poor air quality, lower levels of car ownership, in areas of deprivation and

where the programs would impact positively on local schools and hospitals.

- Where traffic may be displaced onto main roads, the council must monitor the impact on air quality, and mitigate negative effects in advance of implementation, possibly by widening pavements and creating cycle lanes, managing traffic to reduce vehicle idling time and introducing green screening programmes.
- In conjunction with the introduction of Controlled Parking Zones (CPZ) and a reduction of parking so, the kerbside can be utilised for active travel and public realm improvements (such as pocket parks and cycle parking).
- In conjunction with improvements to Public Transport and other work on adjacent main roads to increase cycling and other forms of active travel.

Southwark has introduced several LTNs, and other measures to reduce traffic, that it is in the course of piloting during 2020/ 2021, with an overall aim of making streets healthier, safer and greener, and contributing to a newly articulated vision of a Low Traffic Southwark.

Many of these measures to reduce traffic have been introduced in 2020 as experimental traffic orders (ETMOs), using the Mayor's London Streetspace Plan funding. Some sites have been informed by previous consultation and community organizing.

Three LTN sites have been chosen in partnership with Guy's and St Thomas Trust Charity (GSTTC), who are partnering with the council to providing funding for three LTNs in the centre of the borough; Harris Primary & Nell Gwynn Nursery, Brunswick Park Primary and Ark Walworth.

GSTTC have a particular focus on child obesity, long-term conditions and air quality, which together make a focus on measures to reduce traffic, improve air quality and increase active travel an obvious priority for them.

The selection criterion for these schemes is:

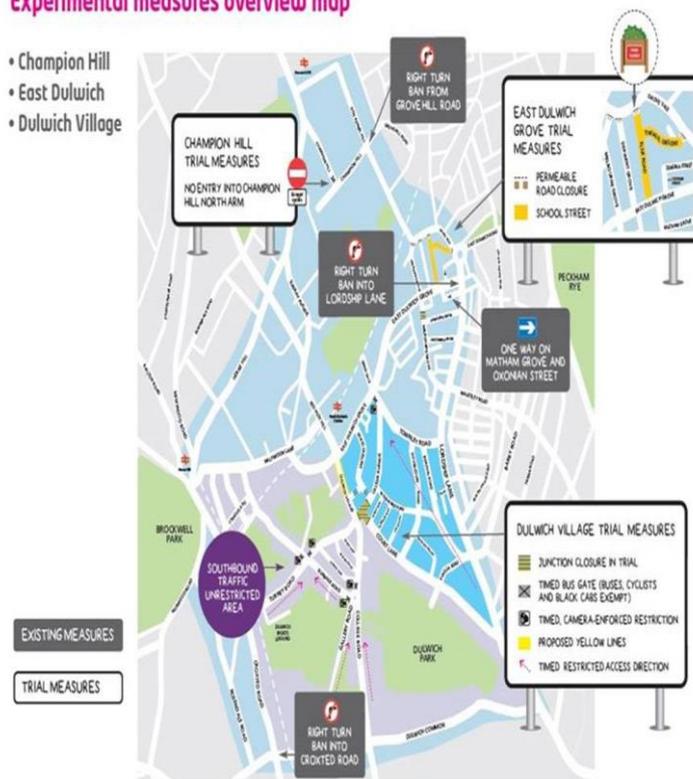
- High child obesity
- Poor air quality, particularly around schools
- High levels of social housing and deprivation
- Higher proportions of Black ethnicity populations in the locality
- Local Schools – in order to impact on children and family journeys
- Local parks – in order to increase use

The Commission heard that there would be robust evaluation of the GSTTC schemes with 20% of the budget assigned to this, which is much higher than usual. This is in order to inform future learning in Southwark and London wide. The evaluation will look at changes in behaviour, such as increased walking and cycling, on the streets with schemes, as well as adjacent streets. The number of car journeys will also be monitored. In November 2020, GSTTC told the Commission that the evaluation would not include measuring air quality, as this is challenging to do accurately, however subsequently officers informed the Commission that they are looking at the potential for high tech air quality monitoring equipment, which is welcome.

The monitoring and evaluation of Southwark LTNs will be based on the model the council is developing for the Dulwich Healthy Streets review. Dulwich Healthy Streets has taken a neighbourhood approach, working with the community to address concerns about traffic volume and its impact on the community. Dulwich has the following schemes:

Experimental measures overview map

- Champion Hill
- East Dulwich
- Dulwich Village



This framework was not made available to the commission to consider as it is not far enough advanced and the GLA election period has prevented consultation with residents and publication. It has since been published.²

The Commission has therefore only been able to focus on limited aspects of the delivery of LTNs and other measures to reduce traffic.

Once the schemes are evaluated, the Commission is keen that the council understand the impact on car usage and car ownership, to ensure that LTNs will decrease traffic over time, and thus air quality. The Commission acknowledges that changes to car ownership can take a while to see evidence of reductions, however previous research is positive³. There is detailed and local data available on car ownership, by ward and postcode, supplied by

² The formal review and consultation of the Dulwich area LTN measures (Dulwich Village, East Dulwich and Champion Hill) commenced on 17th May and will run for eight weeks. Details can be found at the following weblink: <https://www.southwark.gov.uk/transport-and-roads/improving-our-streets/live-projects/dulwich-review>

³ <http://rachelaldred.org/research/low-traffic-neighbourhoods-evidence/>

the DLA on a quarterly basis, which can be used to monitor trends in car ownership⁴.

Work with the Emergency Services

Both Southwark Fire Service and London Ambulance Service (LAS) attended meetings and gave evidence. They stressed the importance of good communication, which they said has improved as the pilots have progressed.

LAS said that the combined impact on ambulances of traffic schemes and the pandemic had been very complex with massive peaks and troughs, across London. The cumulative impact of all schemes including LTNs, pop-cycle lanes, school streets, utility works and loss of major infrastructure had impacted on the Trust times. Overall, there has been more traffic on the road with an average increase of 2 minutes in response time.

They reported that Southwark Council has implemented a larger number of schemes than most, and in a short period, which speaks to a high level of ambition. Crew staff are asked to report any delay due to traffic congestion, road layout or schemes that impact on their ability to respond to patients or egress patients to hospital, for patient safety monitoring. The total number of reported incidences pan London is 171, and in Southwark, this is 51. An incident does not necessarily mean something adverse has happened. They gave the commission assurances that Ambulance times remain good in Southwark.

LAS prefer cameras rather than physical barriers to prevent circulation. They recognize the benefits of the LTN schemes and are keen to find solutions, emphasizing the importance of the council in continuing to engage closely with LAS during the design phase. The cabinet lead, Cllr Catherine Rose, reported that fortnightly meetings are now established and working well.

Similarly Southwark Fire Service emphasised that the importance of early engagement. The Fire Service priority is establishing attendance times; with a target of the first appliance taking

⁴ <https://www.gov.uk/government/collections/vehicles-statistics>

6 minutes to arrive, and the second 8 minutes. They reported that on occasions static barriers had been problematic; however, they reported that after consultation with the Fire Service these bollards were now moveable. The Fire Service said they did not necessarily have a preference for moveable bollards over planters, in all occasions, and they appreciated costs and other design issues. Their approach has been to visit traffic schemes and look at the route, planters, barriers, access and egress and overall impact of LTNs.

Recommendation One

The framework to evaluate the LTNs ought to be provided in full to scrutiny to review, and this ought to summarise work with the Emergency Services, including a section evaluating LAS preference for cameras informed by an analysis of the impact of LTNs on emergency vehicles, response times, different barrier options, and mitigations.

LTN's Impact on the Local Economy

Last year the scrutiny commission heard that LTNs have the potential to impact positively on local high streets, if managed well. The Mayor's Covid recovery plan focuses on a Green New Deal, which means High Streets for all, thinking differently and building on localism. Throughout Europe, cities are adopting a local approach, with the Paris 15 minute city being the most famous. Encouraging increased use of local businesses on our high streets ought to form part of the LTN evaluation framework.

Successful integration with the local economy will increase the likelihood that communities will embrace these schemes, and strengthening the local economy will mean that some journey destinations will be closer, increasing the likelihood that people will choose active travel. However, the Commission acknowledges this is challenging during the pandemic, with many businesses closed for extended periods.

Recommendation Two

When evaluating LTNs the council ought to measure footfall on high streets, where it is

possible to establish a baseline. The council also ought to outline work undertaken with traders to ensure that any difficulties (e.g. receiving supplies) are addressed and that the opportunity to maximize footfall and support the local economy is delivered.

Longer term the council ought to conduct a longitudinal study with a health partner such as King's College Hospital or Guy's and St Thomas' Hospital NHS Foundation Trust looking at the long-term impact of LTNs on the health of residents.

Schools impacted by air pollution- particularly schools with high proportion of residents with low incomes and from Black, Asian and Minority Ethnic backgrounds.

The School Streets programme is established and working well, with over 39 schemes now operational, 31 of which have been implemented this year, which is a huge acceleration in the programme. The council is aiming to install 60 schemes and has contacted every school in Southwark.

School Streets are aimed at making the roads around local school safer and less congested, by reducing driving. This is a key priority in tackling air pollution, as children are particularly vulnerable.

A recent GLA report showed an 18% reduction in people driving to school⁵. This is an encouraging finding but there is more work to be done to get a modal shift to active travel.

The Commission is keen that this work is expanded and that there is additional work with those schools located in areas of high pollution, particularly with low income and Black, Asian and Minority Ethnic children and young people, given the higher health risks face by these populations. The GSTTC schemes are a welcome complement to the School Streets programme.

⁵ <https://www.london.gov.uk/press-releases/mayoral/schoolstreets-improve-air-quality>.

Recommendation Three

The Council should conduct an analysis of schools that might be more disproportionately impacted by air pollution compared to other schools (looking in particular at schools with higher proportions of students on free school meals or with students that have English as a Second Language)

Where these schools are on main roads, the analysis should identify actions that can a) be tied in with the Low Traffic Southwark strategy to reduce traffic on those main roads and b) mitigate the impact of that traffic in and around the school itself.

More generally and in the longer term strategies are required to build on School Streets and to ensure that walking and cycling are increasingly built into the whole journey to school as part of the Movement Plan and that the number of and proportion of driven journeys are continually being reduced.

Increasing Public Transport provision around the Aylesbury Estate and in the south of the borough

The commission is concerned that excessive parking levels are envisaged as part of the regeneration of the Aylesbury Estate, rather than a focus on increasing levels of Public Transport (PTAL) through the life of the regeneration scheme.

The south of the borough is a site of a number of pilot measures to reduce traffic initiatives, including Low Traffic Neighborhoods; however, it is an area with poorer PTAL. LTNs work best where there is good public transport and people can reach amenities easily by walking or cycling.

Recommendation Four

Focus on increasing PTAL in regeneration areas and where levels are low, e.g. the south of the borough, in order to reduce parking levels in new developments as close to zero as is possible

Measures to Encourage Active Travel with People Who are not Presently Using Cycling and walking to get around

The first Covid 19 lockdown saw a very significant rise in cycling rates and sale of bikes as people have sought safer ways of getting about and made the most of periods of reduced traffic. The Commission heard that the council is rapidly scaling up the provision of cycle hangers, which is welcome news.

In early summer 2020 the government announced that despite fewer people travelling overall during the crisis, there had been a 100% increase in weekday cycling and at weekends, the increase has been up to around 200%, compared to pre-COVID-19 levels⁶. There is also evidence that new cohorts of people are taking up cycling.

However, still too many women in the UK feel cycling “is not for them”. The 2019 Sustrans Bike Life survey found that 76% of women in the UK never cycle and only 9% cycle regularly compared to 21% of men who cycle regularly, with women from ethnic minorities least likely to cycle. Similarly only 9% of disabled people regularly cycle, compared with 17% of able-bodied people⁷.

Given that women are more likely to use several modes of transport and trip-train (multi stop journeys); more attention also needs to be paid to linking up safe cycle bike routes with other forms of transport, with greater provision of secure and well-lit cycle parking and hire at transport hubs.

The Bike Life survey found that top barriers to broader participation are safety, weather, confidence and storage and living close to the destination. People wanted an increase in more traffic-free cycle routes away from roads (e.g. through parks or along waterways), as well as more cycle tracks along roads which are

⁶ The Department for Transport data measured cycling levels for the tightest lockdown period, spanning March 16 to June 1, which was indexed against the equivalent day of prior years' data. See: <https://cyclingindustry.news/cycling-levels-up-by-up-to-300-during-uks-lockdown/>.

⁷https://www.sustrans.org.uk/media/5942/bikelife19_aggregatedreport.pdf

physically protected from traffic and pedestrians from cars and cycle routes on quiet roads.

There was an appetite for extended hire options including access to cargo bikes and adapted cycles (e.g. tricycle or recumbent cycle).

There are a number of GLA / TfL schemes that specifically seek to broaden the profile of cycling, these include a detailed programed, centered on three themes:

- Streets that enable cycling: Londoners need safe, accessible routes that are not dominated by motorised traffic.
- Making it easy to get around by cycle: making a cycle journey should be as convenient as any other mode of transport.
- Promoting cycling for all Londoners: work with schools and communities to remove barriers and change perceptions about cycling.

Southwark also has a number of schemes including cycle proficiency training in schools that address confidence.

The commission believes that more work needs to be done to broaden participation including an analysis of gender and other inequalities to inform our existing cycling infrastructure, and how to take other needs into account and that we need to build a cycling infrastructure that is explicitly feminist, informed by diverse and representative viewpoints.

Recommendation Five

There is evidence of a far broader demographic being attracted to cycling during the pandemic as traffic levels have fallen. Targeted work is needed with women, low income, older people, disabled people, children and young people and some Black, Asian and Minority Ethnic communities to understand the barriers to participation and the actions that will increase cycling rates, including ensuring the wider cycling infrastructure is inclusive.

Work to Reduce Emissions Caused by Online Shopping and Increase Sustainable Freight

Freight is responsible for a quarter of air pollution in Southwark and the council is increasingly engaging with this agenda.

The GLA officers told the commission that they are promoting sustainable freight with large companies such as UPS and DHL, who are working on consolidating their electrical fleet.

Some people in the gig economy, who work for delivery companies, have also benefited from the Mayor's London wide scrappage scheme.

Southwark officers reported that it is larger companies that are making the switch as they have the capacity to invest in expensive new technology. Sainsbury's is one such company, and they have found it as quick to use cycle freight to deliver food as vans. The council is working with local hospitals to encourage the switch to freight. However, officers reported that smaller companies are finding it harder to make the switch for two reasons; the first is that the freight industry has a small profit margin so this makes it difficult to be flexible. The other barrier is the lack of distribution sites in the north of the borough, because of the higher rent and the low profit margin.

Team London Bridge has been funded to promote cargo bikes in the most commercially viable location in the borough. After 2 years, they have secured their first contract with a business.

In addition to the above the Commission thought a scheme where businesses could try out trailers and e cargo bikes, to see if these were right for their business, prior to investing, was proposed, as this could demonstrate the amount of bulky freight that it is possible to move by bike. A similar approach has been used successfully in Waltham Forest to encourage take up of e cargo bikes. Officers cautioned that it could be complicated and expensive to deliver something like this during a pandemic with limited resources.

The Commission considered evidence that cities around the world are setting up schemes

to address the pollution caused by the 'last mile'. The end of the journey, often through residential areas, of products increasingly purchased online, particularly for same-day and next-day delivery. These tight delivery slots lead to repeated journeys by vans into busy city centers, often at the height of rush hour. Cities such as Montreal, Berlin and the City of London are setting up pilot hubs in the city to receive packages, which are then delivered using special electric cargo bikes.⁸

Recommendation Six

Work with Business Improvement Districts to deliver Nests to enable hubs to receive, and then deliver the 'last mile' of online shopping by e cargo bikes.

Follow up on Recommendation 15 of the Air Quality report and understand how sustainable freight is being worked into other Southwark strategies including the Movement Plan, as part of regeneration schemes and if the council is using sustainable freight for in-house services, where possible.

Recommendation Seven

Implement a pilot e cargo hire scheme in 2022, once the current focus on LTNs and school streets is embedded, and we are firmly in recovery from the pandemic.

Delivering Low Traffic Southwark and Responding to Previous Recommendations

The previous Air Quality scrutiny review made a number of recommendations focused on driving down traffic overall with work on reducing traffic volumes on main roads needed to compliment the delivery of LTNs.

The amount of work involved in staff delivering the LTNs, as well as the more ambitious vision of reducing emissions, and thus private car use, over a shorter time period due to the climate emergency, has meant that a complete response to all the previous recommendations,

and a revised Movement Plan has not been yet been provided.

While recognizing the constraints on member and officer capacity and the huge amount of work undertaken in recent months, to obtain a clear picture of the strategy for addressing Air Quality in Southwark the Commission needs to:

- understand the plan for delivery of the recommendations of the previous Air Quality scrutiny review (see below)
- Be able to scrutinise the proposed Low Traffic Southwark strategy
- Be able to scrutinise the revised Movement Plan.

Recommendation Eight

The commission therefore recommends that once the LTN review is completed that more time is given over to responding to each of the commission's previous recommendations and that officers and cabinet leads return to the commission with a detailed operational plan outlining how Low Traffic Southwark will be delivered and provide a full response to the below:

1) Develop an operational plan with partners to implement the Movement Plan, focusing on structural changes, informed by the ambitions of the Movement Plan and its associated deprivation data.

2) Viability testing of the target to reduce traffic by 90% by 2030

3) End the current diesel contract for Southwark fleet vehicles and switch to EV as soon as possible. Swap EV for sustainable transport / freight. Revisit our procurement strategy to ensure subcontractors have EV or a sustainable fleet. Set a cut-off date for compliance so that subcontractors have time to make the switch. (Marked to be considered in the cabinet response to the first report)

4) Southwark adopts a maximum charge for bike hubs/hangers that ensures that is

⁸ <https://www.theguardian.com/cities/2019/nov/04/can-nests-and-eco-bikes-reduce-the-environmental-impact-of-parcel-delivery-in-cities->

cheaper than car parking by space (marked to be considered in the cabinet response to the first report)

5) An update on charging for parking in the borough including the development and implementation of the emissions based charging policy and if this will include reductions in car parking provision. The commission recommended that this policy looks at the parameters of vehicle size, fuel, and multiple vehicles per house.

6) A borough-wide greenery programme to use native hedges to screen to against air pollution, ecological planting and also improve the environment and place making. Examples include allotments and wildlife sanctuaries. (Marked to be considered in the cabinet response to the first report) In addition, the commission would like to see a focus on more ecologically friendly maintenance of housing estates, including less mowing of grassy banks and verges. Green waste also ought to be converted to compost, see Earth Cycle.⁹

⁹ <https://earthcycle.co.uk/about>

Planning and Environment Review Report

Environment Scrutiny Commission

July 2021

APPENDIX A

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Executive Summary

The report summarises the commission's investigation into Southwark's built environment to improve the quality of its environmental policies in development as well as its performance against current planning policy objectives with respect regard to the environment. We observed that in order to positively impact on Southwark's built environment and address the Climate Emergency, that the council reduce embodied carbon over time as well as improving the environmental impact of schemes over the whole lifecycle of a building. We found the need for this to be done through ambitious action being taken by the council to reduce carbon, pollutants, safeguarding scarce resources and improving biodiversity in the context of planning.

Summary of Recommendations

Recommendation One

Ensure the NSP and associated planning documents accord with the Climate Strategy by December 2021, by having polices in place that:

- Meet Net Zero carbon by 2030
- Devise targets on embodied carbon in construction to meet net zero targets in developments
- Increase the number and quality of trees in the borough
- Support provision for food growing spaces and distribution
- Increase green space and green corridors across the borough
- Priorities air quality improvement actions that also have a carbon reduction benefit
- Support active travel (walking, cycling and public transport) and reduce reliance on private travel by motor vehicle

Recommendation Two

A completion certificate ought to be required with Building Control issuing this, coordinated with Planning, and this ought to ensure that the environmental standards set out in the planning application are met.

Recommendation Three

Encourage all developments to contribute to the development of Decentralised Energy (DE) networks, including by connecting to them where there is one in proximity to the development, alongside mandatory requirements for significant developments.

Recommendation Four

Establish a policy and agreed process for allocating the Carbon Offset Fund to projects at pace, and in line with the Carbon Emergency, and by December 2021 at the latest.

Recommendation Five

Planning adopt the Energy Hierarchy (retain, refurbish, reuse/ reclaim, remanufacture, recycle) in the New Southwark Plan for both development and our own council house building programme.

Recommendation Six

That greater scope is given in NSP site descriptions to the re-use of existing buildings and that support is given to retention, refurbishing and repurposing of

existing buildings and increasing the density of development on the site without a default to demolition of all existing buildings.

Recommendation Seven

Develop the public realm to enable active travel and support the local economy including cycle routes, walking routes and pedestrianisation, through amendments to planning policies.

Recommendation Eight

Use a matrix to promote a mix of amenity provision in local neighborhoods, and judge the capacity of schemes to contribute to a strong local economy, and increases to social and natural capital.

Introduction

This review was conducted in a shorter than normal administrative year by the Environment Scrutiny Commission. The review picks up from work of last year's Commission, which looked at the Climate Emergency more broadly and identified planning as a key lever in meeting the council's aim of reaching net zero by 2030.

At a macro level, Planning sets the policy framework for the borough, affecting broadly on our transport, energy, natural and built environment; all key to reducing carbon over time, and preserving our ecological integrity. At a micro level, the planning service and building control functions govern and enforce the amount of carbon a new building can emit and work to ensure it is built to high environmental standards.

Review Aims

The review seeks to principally influence Southwark's planning service in order to improve the quality of Southwark's environmental policies in development; performance against current planning policy objectives; and delivery of the planning service.

The overriding aim of the review is to positively impact on Southwark's built environment and address the Climate Emergency, with specific reference to reducing carbon, pollutants, safeguarding scarce resources and improving biodiversity.

Evidence received

- i. Planning Officers
- ii. Ann Griffin, a member of Southwark's Design Review Panel, Director of Architects Collaborative and Mina Hasman , Skidmore, Owings & Merrill, who is group lead for the Cross-Industry Action Group, who instigated the Climate Framework. Mina is also on the board of UK Green Building Council.
- iii. Southwark Planning Network, with Paula Orr and Richard Lee.

Themes

Align Planning Policy with Climate Emergency Strategy

Southwark Planning Network commended the ambition of the draft Climate Emergency strategy but raised concerns that the Council has not yet brought forward alterations to the proposed New Southwark Plan (NSP) that address significant changes required by the draft Climate Emergency Strategy to meet net zero by 2030. These are:

- Enforcing targets on embodied carbon from construction to meet net zero
- Increasing the number and quality of trees in the borough
- Provision for food growing spaces and distribution
- Increasing green space and green corridors across the borough
- Prioritizing air quality improvement actions that also have a carbon reduction benefit.
- Near zero car parking in new developments.

The architects the commission took evidence from also supported the ambition of the council's Climate Emergency work and stressed the importance of finding ways of integrating documents and approaches to meeting the Climate Emergency. Ann Griffin, Director of Architects Collaborative, highlighted how a range of inconsistent and misaligned regulatory functions and policies, which are working to different standards, make it more difficult to set coherent environmental standards.

They also highlighted the importance of reducing embodied carbon over time, and that as efficiency improves this will become more important. They emphasised the importance of requiring developers to tackle the carbon created in construction and through life cycle of the building, not just carbon emitted once the building is complete.

Officers outlined how the New Southwark Plan (NSP) was developed as the council was growing in awareness of the Climate Emergency, which was then declared in 2019. Once the NSP is agreed then the plan is to do a review to catch up to the Climate Emergency strategy. For example, the NSP contains an energy policy that is aimed at zero carbon by 2050. Officers are intending to update this Energy policy with one that will deliver zero carbon by 2030.

The NSP is presently going through an examination in public. The examination in public commenced with the publication of the plan early 2020. Following feedback from inspectors, an updated version was consulted on in the autumn 2020, with hearings in public happening now, spring 2021.

Planning officers also intend to develop several supplemental environmental policies once the NSP is approved.

Recommendation One

Ensure the NSP and associated planning documents accord with the Climate Strategy by December 2021, by having polices in place that:

- **Meet net zero carbon by 2030**
- **Devise targets on embodied carbon in construction to meet net zero targets in developments**
- **Increase the number and quality of trees in the borough**
- **Support provision for food growing spaces and distribution**
- **Increase green space and green corridors across the borough**
- **Priorities air quality improvement actions that also have a carbon reduction benefit**
- **Support active travel (walking, cycling and public transport) and reduce reliance on private travel by motor vehicle**

Achieving Net Zero in Development

The architects who gave evidence, Ann Griffin and Mina Hasman, recommended that Planning work with Building control to ensure that high pre construction carbon conditions on paper achieve net zero in practice, as these are not always realised in the final building.

In their presentation, they recommended three integrated steps:

- **Planning: consent to high pre construction carbon conditions on paper that achieve net zero.**
- **Utilise Building Control to ensure planning standards are met on site. This is innovative and practical, ensuring that buildings actually meet the carbon standards set down on paper. Ann Griffin warned that there is too much value engineering and exploitation of loopholes that mean standards are not achieved. A completion certificate ought to be required with Building Control issuing this, coordinated with Planning.**
- **External stakeholders and community are engaged. The progress here with declaring a Climate Emergency was noted and the architects gave the example of Low Traffic Neighbourhoods, which came in part from community organisation, as an example of an approach with engagement from multiple stakeholders.**

They emphasised the importance of the above three recommendation being fully aligned. A completion certificate would build on the existing work of Building Control, who currently have a role assuring standards, but work to lower ones.

The recommendation builds on this role, which would be clearly defined to developers, and enables checking that the carbon standards set down in Planning have been met. Other boroughs are considering a similar step, and have been doing so for the last several years but this has not yet been implemented. Completion certificates were part of the Future Homes policy framework proposed by the early Coalition government several years ago, but were not realised at that time.

Planning officers reported to the Commission that there is already coordination between Building Control and Planning, who are in the same management team and liaise regularly regarding a completion process, which happens at the point of allocation of street name.

Recommendation Two

A completion certificate ought to be required with Building Control issuing this, coordinated with Planning, and this ought to ensure that the environmental standards set out in the planning application are met.

Saving More Carbon on Site

Planning Officers told the Commission that they are looking for more carbon to be met on site. However, they also viewed the Carbon Offset Fund as an opportunity to retrofit older houses, which are leaking the most energy.

It is certainly true that insulation and retrofitting of all council owned properties, particularly prioritising homes with most risk of fuel poverty, is an important step in meeting net zero, nevertheless the Commission are keen to see more ambition here. Members suggested that meeting the Passivhaus standard for our own new council homes ought to be achieved and that the council ought to move towards zero carbon, without offsetting, for private development.

Officers pointed out the particular difficulties of high-rise schemes, which are above eight floors high, as these are much more of a challenge to reach zero carbon than lower level housing. It is recognised by leading structural engineers, such as Arup, that high rise are a technical challenge. One of the methods they propose for achieving this is to connect developments to district energy systems with micro grid schemes¹.

Southwark Planning Network recommended that more use is made of Decentralised Energy networks, and that these are also a way of ensuring low-carbon and low-cost energy and can contribute to reducing fuel poverty.

¹ <https://www.arup.com/perspectives/how-can-we-make-zero-carbon-high-rise-a-reality>

They reported that the NSP proposes to extend the Decentralised Energy network based on SELCHP from Bermondsey to cover additional Council properties in Old Kent Road and Peckham.

Officers reported that NSP policy P69 Energy requires all significant development to contribute to the development of Decentralised Energy networks, including by connecting to them where there is one in proximity to the development. The Commission would like to see this expanded so that all developments are encouraged to contribute to the development of Decentralised Energy (DE) networks.

Recommendation Three

Encourage all developments to contribute to the development of Decentralised Energy (DE) networks, including by connecting to them where there is one in proximity to the development, alongside mandatory requirements for significant developments.

Carbon Offset Fund

Carbon offset payments have been revised in line with the London Plan from £60 per tonne to £95 per tonne, which is welcome.

The council has received £1,933,249 in Carbon Offset funds since 2016; however, this has not yet been allocated to schemes that will save carbon. In addition, according to a GLA report, Southwark has, a further £4,868,915 carbon offsets in the pipeline; which are secured by legal agreement, but not collected².

Work has been undertaken to develop a policy and method for allocating these funds; however, this has not been completed. A policy is due to be included in the Climate Emergency strategy. Delays in allocating funds mean more carbon is emitted, that could be saved, if the allocation process was expedited.

Recommendation Four

Establish a policy and agreed process for allocating the Carbon Offset Fund to projects at pace, and in line with the Carbon Emergency, and by December 2021 at the latest.

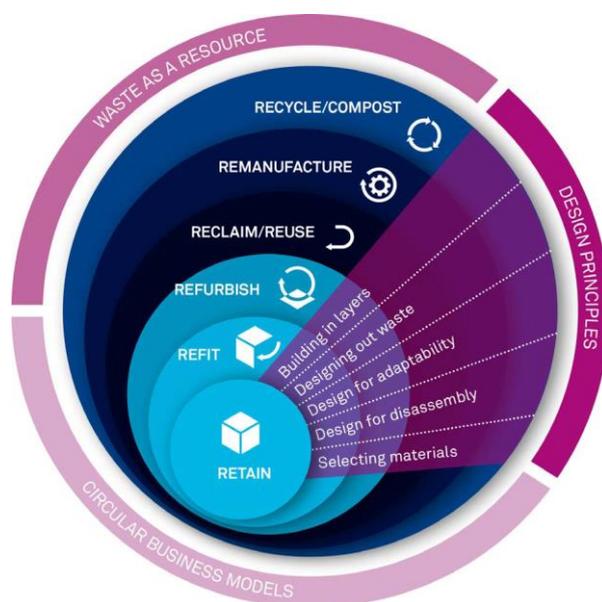
² Page 11

https://www.london.gov.uk/sites/default/files/2020_carbon_offset_survey_monitoring_report.pdf

Energy Hierarchy and the Circular Economy The Southwark Planning Network commented that presently the NSP suggests an energy hierarchy for new development: energy efficient design and construction; low carbon energy supply; on site renewable energy generation and storage.” (p147). However, repurposing existing buildings is not mentioned in the NSP – when in their view it should be first in the energy hierarchy. They said that there appeared to be a willingness on the part of the Council to discuss with interested groups an approach to encourage developers to consider refurbishment of buildings before demolition. Southwark Planning Network recommend Southwark require developers to consider options for reusing or repurposing existing buildings before applying for permission for demolition and new build.

Southwark Planning Network also raised concerns that the council has one of the largest demolition programmes in London. This may be in part because Southwark has one of the largest council house building programmes in the country and uses development to drive increases to transport provision such as the Bakerloo Line.

London’s Circular Economy route map, produced by the London Waste and Recycling Board (LWRB), notes that one of the challenges facing London is to provide access to the housing, business premises and infrastructure that the capital’s residents and workers require – but in an efficient and sustainable way. In building terms, this hierarchy best meets this: retain, refurbish, reuse/ reclaim, remanufacture, recycle.



Above: Building Revolutions: applying the circular economy to the built environment, David Cheshire (AECOM), RIBA, 2016 Ref: Building Revolutions’ (2016), David Cheshire, RIBA Publishing

Planning Officers reported that they are working towards adopting the principles of the Circular Economy as laid out in the GLA document³, which draws upon the work of LWRB.

The challenge is how the council can continue to deliver more homes, including more council and social housing, and enhance the transport infrastructure, while reducing the emissions associated with building. Adopting an Energy Hierarchy is one way of embedding these principles in policy.

Recommendation Five

Planning adopt the Energy Hierarchy (retain, refurbish, reuse/ reclaim, remanufacture, recycle) in the New Southwark Plan for both development and our own council house building programme.

Recommendation Six

That greater scope is given in NSP site descriptions to the re-use of existing buildings and that support is given to retention, refurbishing and repurposing of existing buildings and increasing the density of development on the site without a default to demolition of all existing buildings.

The 15-Minute City

The '15-minute city' proposes a city in which all the essential services and products that people need can be accessed by a walk or bike ride of no more than 15 minutes.

Changes to the way people are working due to the pandemic potentially support more localization. The 15-minute city can also support Covid-19 economic recovery, and the local economy.

Low Traffic Neighborhoods, which are being piloted by Southwark in 12 areas, are often complimentary to the 15-minute city concept. Additional measures to support the 15-minute city in Southwark planning policies would be traffic-free zones and pedestrianized areas as part of the public realm surrounding major developments. These are not mentioned in the NSP policies.

Commission members noted that developments reaching planning committee often prioritize shop fronts for cafes, because of the greater revenue generated, however a mix of amenity is needed.

Southwark Planning Network proposed using different benchmarks to assess buildings and proposed alternative metrics, not just commercial, for example increases to social and natural capital.

³ <https://www.london.gov.uk/what-we-do/regeneration/advice-and-guidance/about-good-growth-design/design-circular-economy>.

Recommendation Seven

Develop the public realm to enable active travel and support the local economy including cycle routes, walking routes and pedestrianisation, through amendments to planning policies.

Recommendation Eight

Use a matrix to promote a mix of amenity provision in local neighborhoods, and judge the capacity of schemes to contribute to a strong local economy, and increases to social and natural capital.

APPENDIX A

**Health and Social Care Scrutiny
Commission**

**Mental Health Inequalities of Black,
Asian and Minority Ethnic Children
and Young People**

August 2021

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Executive Summary

The Commission took as its starting point the commitment made in November 2018, by the Health and Wellbeing Board, to ‘set a shared ambition to meet 100% target of children and adolescents with Mental Health needs and that they would aim to achieve this by 2020’.

The review spans the work of two administrative years. The year 2019/20 addressed the Mental Health of children and young people 0-25 years, with a particular focus on Black, Asian and Minority Ethnic children and young people. With the onset of the pandemic, the Commission also looked at the impact of COVID-19, and particularly lockdown, on children and young people’s health and wellbeing.

In the administrative year 2020 /21 the Commission widened the review scope to look at the health inequalities of Black, Asian and Minority Ethnic children and young people using a race equality framework , in order to better understand the impact of discrimination and deprivation, and how these can be addressed.

1. The disproportionate impact of COVID 19 on Black, Asian and Minority Ethnic children and young people.

COVID-19 infection and lockdown is exacerbating existing race inequalities and these intersect with economic inequalities. Black, Asian and Minority Ethnic adults are more at risk of COVID-19 infection, and more likely to become seriously unwell or die. Although children are generally at very low risk from COVID 19, losing a parent, close relative or loved one early is a tragedy and will potentially have a life long impact on children and young people’s life chances. Black and Asian families, in particular, are suffering higher levels of infection and mortality because of a combination of overexposure through work on the front line, higher levels of existing health conditions, racism and barriers to accessing health care.

Vaccine rates are lower among Black African, Black Caribbean and Pakistani communities, which has serious potential health consequences for future COVID-19 waves. The Commission is keen the NHS and council continue to work together to reduce the chances of further loss of life, or long term health problems through Long Covid, by increasing vaccine take-up amongst communities most at risk, which frequently mirror lower vaccine take-up. There is good ongoing work in this area, however the gap between different population cohorts is still too large - in Southwark, as of 3 June, coverage amongst high-priority groups was highest for the white population, at 89%, and lowest for the Black Caribbean population, at 65%. Work addressing the linguistic, cultural and digital barriers to accessing information and collaborating with faith and community groups to identify effective channels to disseminate information and provide support for increased vaccination is crucial.

Vaccines are being made available to everybody, whatever their immigration status, and the Commission is keen that the council follow the practice of other councils in providing successful outreach and pop ups to maximize take up.

As well as being at increased risk of infection Black, Asian and Minority Ethnic people are more likely to experience economic hardship through lockdown and be treated more harshly by the criminal justice system. Lockdowns have disproportionately affected children and families with living in economic deprivation, experiencing mental ill health, disability, with special needs, and young carers. The increases in Domestic Abuse are of particular concern. Providing safe and connected spaces for children and young people, particularly outside space, now and during any future lockdowns must be a priority.

2. Prevalence of Black, Asian and Minority Ethnic children and young people's mental ill health.

The Commission heard that Black and minority ethnic communities are at comparatively higher risk of mental ill health because of the wider socio-economic determinants, including deprivation and racism, however young black people report less mental ill health but older people from black ethnic groups are more at risk of severe mental illness.

Nationally people from African Caribbean communities are three times more likely to be diagnosed and admitted to hospital for schizophrenia than any other group. Locally black people are disproportionately diagnosed with schizophrenia and psychosis, though the picture is complex.

3. Unequal access to mental health service

Nationally black and minority ethnic people are less likely to be referred to talking therapies and more likely to be medicated for ill mental health. There is a similar situation on Southwark with an under representation of the black people in mental health service provision, and particularly South London and Maudsley NHS Foundation Trust (SLaM) Child and Adolescent Mental Health Service's (CAMHS) provision. This is the most intensive intervention for young people, and Black young people comprise only 25% of patients despite being making up 43 % of Southwark school age children.

However, Black and Minority Ethnic communities are more likely to end up in crisis and forensic care. Nationally black and minority ethnic people are 40 % more likely to access mental health services via the criminal justice system than white people are. The same is true locally with an overrepresentation of black people in forensic care and a disproportionate number of Black people medically sectioned.

The Commission heard that nationally and locally the pathway to support white children and young people experiencing mental distress is often CAMHS or talking therapies, whereas for black young people it is often youth offending or crises care, and this is racism. The Commission would agree with this assessment and urge a consistent focus on reversing this trend through the work of Southwark's Stand Together and the Health and Wellbeing Board's work on meeting the Mental Health needs of all Southwark's children and young people.

The council and the NHS have been working with providers and stakeholder to address the unequal access to mental health services, with a Children & Young

People's Emotional Wellbeing and Mental Health Joint Working Group taking concrete steps to address the under-representation of Black, Asian and Minority Ethnic children and young people in talking therapies. The Commission would like to see this work continue with an additional focus on the work Southwark funds in schools, as well as young offending, forensic and crisis care to address the racial disparities in treatment and outcomes.

The commission heard directly from SLAM on their CAHMS service, where they outlined the steps being taken to increase uptake of CAMHS services and address the unmet mental health needs of Black, Asian and Minority Ethnic young people. Commission would like to see a particular focus on the last approach, with CAMHS working with partners, including Black, Asian and Minority Ethnic community groups, to develop new ways of working in prevention and early help approaches across our communities.

4. Addressing the causes of mental health, stigma, racism and cultural barriers to accessing mental health institutions.

Youth and community workers told the commission young black men are more likely to encounter mental health difficulties as they face greater challenges but there is reluctance to access services, because of stigma and cultural barriers. They commented that there is a need for practitioners and commissioners to come and visit local projects outside of the 9-5 pm, commenting that young people are not hard to reach, but rather hard to hear.

They recommended that network of young people and community groups ought to be developed to inform the work of the Children & Young People's Emotional Wellbeing and Mental Health Joint Working Group and the Health and Wellbeing Board's work. This ought to include Latin American and Eastern European communities.

Black Thrive, working with a similar community in Lambeth, identified institutional racism as one of the reasons that black people have poorer outcomes from services. They said that national and local evidence indicates that black and minority ethnic people want the impact of racism and wider inequalities on their mental health to be addressed in the treatment for their mental illness and in preventative work.

Schools have an important role in addressing inequality and improving socio economic outcomes and Southwark schools are doing well in this regard, with exceptionally good performance post 16. Nevertheless, some children remain disadvantaged.

Black Thrive told us young black people are more likely to experience institutional racism in school with children less likely to receive a positive response to distress and more likely to experience punitive behaviour managing techniques such as detention and exclusion. This is born out to an extent by statistics provided by Southwark's education department, particularly for Black Caribbean students, mixed heritage students and Gypsy Roma children. The rate of permanent exclusion for Black Caribbean children is 1.5 times higher than the rate for White Children and this trend is even more pronounced when looking at the ethnicity of pupils given fixed

period exclusions.

The Commission is keen that the Mental Health First Aiders, that the NHS are providing in schools, are diverse and meet the needs of all young people.

Both Black Thrive and local youth and community workers proposed a more social and structural approach to mental health, which addresses racism, structural inequalities and the wider causes of mental ill health. Black Thrive have a broader remit focused on prevention and tackling racism with priorities such as reducing violence that affects young people, Stop and Search and Decolonising knowledge production.

The last recommendation, to adopt a Race Equality Framework to support the Southwark's work on mental health, is informed by the work of Black Thrive, which works strategically with partners to co-design services with the Black, Asian and Minority Ethnic community to tackle the causes of mental distress, including racism and the wider determinants of mental health. This would build on the work of Southwark Stands Together, and the government's pledge to introduce a new Patient and Carer Race Equality Framework (PCREF). The Council should work within the boundaries of this framework, whilst also seeking guidance from external bodies such as Runnymede and Black Thrive, in pursuit of creating its own Race Equality Framework in the delivery of Southwark 100% universal reach target.

Summary of Recommendations

Recommendation One

The provision of physical and online Youth and Play spaces for young people ought to be prioritised, in recognition of the importance of the social support from adult and peers that young people are able to access in social spaces. Keeping these places open as safely as possible during any future lockdowns ought to be a key objective. The Youth New Deal ought to keep these outcomes in mind when commissioning.

Recommendation Two

The police and criminal justice system must develop a clear plan to combat stigmatisation of communities during the Covid-19 crisis.

Recommendation Three

The council and NHS closely track vaccine take up across cohorts with lowest take up and highest risk, including Black, Asian and Minority Ethnic Communities and people with lower social economic status, and take effective action to increase take-up. This ought to include addressing the linguistic, cultural and digital barriers to accessing information. The council and NHS should work with all relevant bodies, including faith and community groups, to identify effective channels to disseminate information and provide support.

Recommendation Four

The commission recommends that the Council reiterate that the COVID-19 vaccines are offered to everyone in the UK, and reassures that this includes undocumented migrants, free of charge and safe from police or immigration. This includes people who have overstayed their visas, and those on short-term visas who have failed to leave or those who have arrived into the UK without visa.

To ensure everyone can access the COVID-19 vaccination no matter what their immigration status, the Council should work with local charities, local institutions and doctors to set up pop-up clinics in the community to ensure ease of access to the vaccine and offer advice in a number of languages.

The commission recognises that the Cabinet is making efforts to implement the stated above with the example of the walk-in vaccines at Millwall Football Club with no identification needed. To make this effective there must be greater outreach to the undocumented community whilst also sound reassurance that no details or identity will be passed on to either the police or immigration bodies to create a safe space for those who wish to attend.

Recommendation Five

The council and NHS ought to develop a joint plan to reverse the trend of over representation of Black, and Minority Ethnic people in crisis, forensic care and the criminal justice system through preventative work, a focus on race equality and by facilitating better access to mental health care in the community.

Recommendation Six

The Children & Young People's Emotional Wellbeing and Mental Health Joint Working Group:

- Expand stakeholders and the collection of data on different Black, Asian and Minority Ethnic groups' usage of mental health services to the work that Southwark and the NHS funds in schools. As well as young offending, forensic and crisis care, in order to enable specific research and actions to address overrepresentation in forensic and crisis care and underrepresentation in community based and CAMHS mental health service provision.
- Encourage service providers to conduct engagement with Black, Asian and Minority Ethnic communities to ensure therapies are culturally appropriate and geographically accessible, and provide better and more equitable access to talking therapies according to local need and local demographics.

Recommendation Seven

The commission is keen to see the work by SLaM develop and to deliver on the outcome of increasing uptake of CAMHS services and improvement in meeting the unmet mental health needs of Black, Asian and Minority Ethnic young people. The commission would like to see a particular focus on the last approach; CAMHS working with partners, including Black, Asian and Minority Ethnic community groups (including Latin American and European immigrant communities) to develop new ways of working in prevention and early help approaches across our communities. A report back on progress is requested in 6 months time.

Recommendation Eight

The commission would urge the NHS CCG to ensure that the Mental Health First Aiders are diverse, that there is monitoring of the demographics of the young people they work with to ensure equal access that Mental Health nurses have an understanding of racism, and the role includes addressing the wider social issues that many young people are facing.

Recommendation Nine

The Health and Wellbeing Board monitor the diversity of its members and take action to address any lack of diversity

Recommendation Ten

A network of Black, Asian, Minority Ethnic young people, and community groups are developed to inform the work of the Children & Young People's Emotional Wellbeing and Mental Health Joint Working Group / Health and Wellbeing Board. This ought to be diverse and include Latin American, Eastern European, mixed heritage and other minority groups, paying particular attention to communities with poorer mental health outcomes and experiencing socio- economic disadvantage.

Recommendation Eleven

Adopt a Race Equality Framework in the delivery of Southwark 100% universal reach target. This calls for a broader piece of work, with Black, Asian and a broad range of Minority Ethnic communities, to address the causes of mental ill health, which explicitly seeks to address racism and structural inequalities.

Introduction

This review spans the work of two administrative years. The previous year addressed the Mental Health of children and young people 0 – 25 years, with a particular focus on Black, Asian and Minority Ethnic and male people, given the poorer mental health outcomes for Black, Asian and Minority Ethnic people and the higher suicide rate of boys & men. With the onset of the pandemic, the Commission also looked at the impact of COVID 19, and particularly lockdown, on children and young people's health and wellbeing.

This administrative year the Commission widened the review scope to look at the health inequalities of Black, Asian and Minority Ethnic children and young people using a race equality framework¹, in order to better understand the impact of discrimination and deprivation, and how these can be addressed.

Background

Meeting children and adolescents' Mental Health needs

The review took as its starting point the commitment made in November 2018 by the Health and Wellbeing Board to 'set a shared ambition to meet 100% target of children and adolescents with Mental Health needs and that they would aim to achieve this by 2020', followed by a later decision in June 2019 to adopt the Thrive Model²

To achieve this the Council has:

- Established the 'Southwark Child and Adolescent Mental Health Commission'.
- Commissioned statutory, as well as additional, CAMHS services.
- Developed wellbeing and mental health services, in schools, using an additional £2 million
- Delivered an Open Access Service, The Nest, to support self-help, group support and 121 sessions for children, young people and their families. In response to the COVID pandemic, The Nest mobilized and launched a remote service, in May 2020, offering coaching and therapeutic support through either phone or video calls to young people aged 13 - 25 throughout lockdown. As lockdown has eased, The Nest has made the transition from remote to socially distance face-to-face delivery having moved into new premises on Rye Lane, Peckham.

Because of the pandemic, the Southwark NHS CCG has

- Refined KOOTH, an online digital offer of counselling and signposting introduced to Southwark in 2019, initially targeting 11 – 19 year olds, and moving to support young people up to age 25.

Southwark Stands Together

During the course of the review, following the horrendous death of George Floyd at the hands of the police in Minneapolis, and rise of Black Lives Matter, tackling racism has taken center stage. This has taken place under the banner of Southwark Stands Together the council resolved to work as a borough to face head on structural inequalities and to resolve to bring about positive change to address them. This began with an in depth listening exercises with communities, including the workforce. From June- August 2020, over 1,500 people took part, identifying areas for action.

Cabinet agreed Southwark Stands Together (SST) annual report at the 13 July meeting. The annual report sets out the overall context in which the council have been working with staff and those in our community over the last 12 months. It

²<http://moderngov.southwark.gov.uk/documents/s83473/Report%20Children%20and%20Young%20Peoples%20Mental%20Health%20and%20Wellbeing.pdf>

particularly focuses on engagement, healing and reconciliation, language, communications and the use of data and lived experience to inform the work of SST.

The report sets out progress to date against the key themes identified; employment and business, education, health, culture, communities, relationships with the police, the public realm and our workforce. It sets out what action has been taken from agreeing anti – racist pledges, establishing a new Youth Independent advisory group to improve relationships with the police, as well as reviewing the council grants process and taking action to make our council workforce more representative. This has been underpinned by £300,000 of additional investment.

The work of STT dovetails with Southwark’s new equality framework, which was agreed at the same cabinet. Cabinet agreed that there would be regular reporting to the community on the work to tackle inequalities through the equalities framework, including annual reporting to Cabinet on SST programme delivery.

Race Equality Framework

Over the last several years, many local authorities have adopted Race Equality Frameworks to tackle racism and structural inequalities. For example in 2013 the Runnymede Trust ran a pilot Race Equality Scorecard project in three London boroughs: Croydon, Kingston and Redbridge. The purpose of the Scorecard was to enable communities to enter into meaningful dialogue with their local authority and its partners, to assess their performance and help identify what the local priorities were for race equality. Other Local Authorities, such as Greenwich, have followed suit³.

In June 2019, the government pledged to introduce a new Patient and Carer Race Equality Framework (PCREF).⁴ This will support NHS mental healthcare providers to work with their local communities to improve the ways in which patient’s access and experience treatment. Monitoring data on equality at board level, and taking appropriate action, and co-designing actions to address inequality with stakeholders and the community will be a fundamental component of this.

More locally, Black Thrive, formally Lambeth Black Thrive, has pioneered a race equality approach to mental health. This was set up through community organising in Lambeth to particularly address the systemic causes of mental health of black people, and shift away from a focus solely on treatment of symptoms. Formally hosted by Lambeth Healthwatch, it has now spun out as a separate entity.

³ Greenwich Council’s work with Runnymede on a Race Equality Scorecard
https://www.royalgreenwich.gov.uk/downloads/download/1033/greenwich_race_equality_scorecard_report

⁴ See Patient and Carer Race Equality Framework (PCREF).
<https://www.england.nhs.uk/blog/how-can-we-have-the-same-outcomes-when-were-not-having-the->

Southwark's diversity

Southwark is a diverse borough with people from a wide range of racial and ethnic backgrounds. Over 120 languages are spoken in the borough. 11% of households have no members who speak English as a first language.

Just over half (54%) of Southwark's population is from white ethnic backgrounds, a quarter from (25%) Black African and Caribbean ethnic backgrounds and just over a fifth from Asian (11%) or other (10%) ethnic backgrounds.

The ethnic diversity of the borough varies markedly across age groups and the population under 20 is much more diverse than other age groups, with a similar proportion of young people from white and black ethnic backgrounds.

Figure 1. Data from the 2011 Census show the ethnic breakdown of the population of Southwark's population and compares it to that of London and England.

2011 Census	Southwark	London	England
All usual residents	288,283	8,173,941	53,012,456
White British	114,534 39.7%	3,669,284 44.9%	42,279,236 79.8%
Irish	6,222 2.2%	175,974 2.2%	517,001 1.0%
Gypsy or Irish Traveller	263 0.1%	8,196 0.1%	54,895 0.1%
Other White	35,330 12.3%	1,033,981 12.6%	2,430,010 4.6%
White and Black Caribbean	5,677 2.0%	119,425 1.5%	415,616 0.8%
White and Black African	3,687 1.3%	65,479 0.8%	161,550 0.3%
White and Asian	3,003 1.0%	101,500 1.2%	332,708 0.6%

2011 Census	Southwark	London	England
Other Mixed	5,411	118,875	283,005
	1.9%	1.5%	0.5%
Indian	5,819	542,857	1,395,702
	2.0%	6.6%	2.6%
Pakistani	1,623	223,797	1,112,282
	0.6%	2.7%	2.1%
Bangladeshi	3,912	222,127	436,514
	1.4%	2.7%	0.8%
Chinese	8,074	124,250	379,503
	2.8%	1.5%	0.7%
Other Asian	7,764	398,515	819,402
	2.7%	4.9%	1.5%
Black African	47,413	573,931	977,741
	16.4%	7.0%	1.8%
Black Caribbean	17,974	344,597	591,016
	6.2%	4.2%	1.1%
Other Black	12,124	170,112	277,857
	4.2%	2.1%	0.5%
Arab	2,440	106,020	220,985
	0.8%	1.3%	0.4%
Any other ethnic group	7,013	175,021	327,433
	2.4%	2.1%	0.6%

Key findings from the Census include:

- as well as the ethnic groups defined by the Census, we know Southwark has a significant Central and Southern American population through research that we have commissioned and from our community engagement work; although the figures cannot be regarded as definitive, we estimate that there are around 6,600 people who identify as Central or Southern American in the borough
- Southwark has a larger percentage of its population made up of Black African, Black Caribbean and Other Black than England or London, as well as a higher percentage of Other White than England
- the percentage of White British residents has decreased in Southwark since 2001, while there have been big increases in the percentage of Other White and Other Black
- in Southwark, the White British population in Southwark has decreased by 13,218 (-10.3%), while the Black Caribbean (-1,581) and Irish (-1,452) populations have also decreased since 2001
- there's been significant real terms growth in the Other White (16,703), Other Asian (6,228), Black African (8,064), Other Black (7,612) and Other Ethnic Group (5,908) populations

Evidence

The Commission heard evidence from:

- Children's and Adults' Services, Public Health, Community Safety and Education officers
- Southwark NHS Clinical Commissioning Group (CCG) colleagues
- South London and Maudsley NHS Foundation Trust (SLaM) on the Child and adolescent mental health services (CAMHS) they provide.
- Lambeth Healthwatch and Black Thrive, on their race equality work to address the systemic causes of mental health of black people, and shift away from a focus solely on treatment of symptoms.
- PemPeople, a voluntary group working with young people.
- Wigan Deal, following a visit to look at community and prevention work (completed in 2019)
- GLA report 'connecting the care: Supporting London's children exposed to domestic abuse, parental mental ill health and parental substance abuse.
- Baroness Doreen Lawrence report 'An Avoidable Crisis: The disproportionate impact of Covid-19 on Black, Asian and Minority Ethnic communities'.

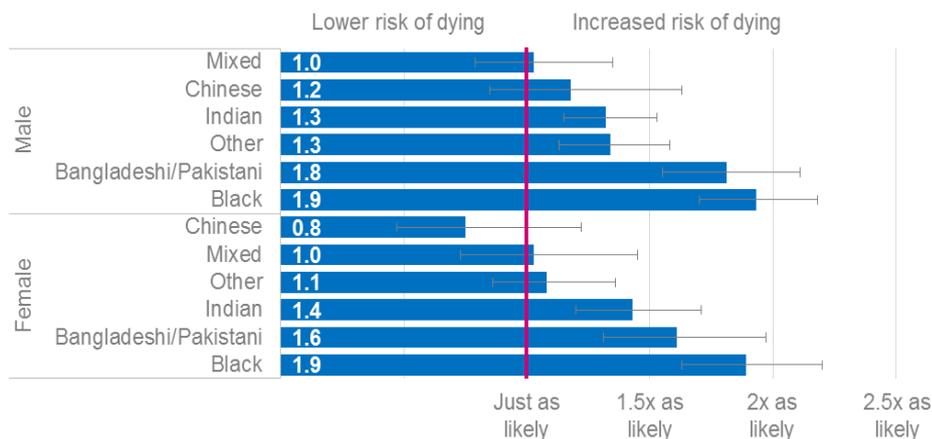
Themes

The disproportionate impact of COVID 19 on Black, Asian and Minority Ethnic children and young people.

COVID 19 Infections

The Commission received two reports from public health on the impact of COVID 19, one of which looked at the impact of lockdown on children and young people. Another report looked at the increased risk of Domestic Abuse and the mental health of children and young people during lockdown. Community Safety also provided a comprehensive report on Domestic Abuse and the impact on young people & children.

Black, Asian and Minority Ethnic adult populations are generally more at risk of becoming seriously unwell or dying of COVID 19, with significantly higher mortality rates among certain ethnic groups, most notably those of black and Asian ethnic backgrounds.



*Figure 2.
Measuring the
risk of dying from
COVID 19 by
ethnicity.*

Children appear less susceptible to infection and the risk of severe illness is lower in children generally, apart from those with pre-existing conditions. Paediatric multi-system inflammatory syndrome is severe but incredibly rare. The most frequent impact on children and young people of COVID -19 infection is therefore likely to be the bereavement of a family member, or a loved one becoming very unwell.

Officers told the commission that Public Health England conducted extensive community engagement as part of their national review into why COVID-19 is particularly impacting Black, Asian and Minority Ethnic groups. The engagement identified a number of themes, including:

- **Long-standing health inequalities**
COVID-19 has exacerbated long-standing inequalities affecting Black, Asian and Minority Ethnic groups, including poorer socio-economic circumstances. Associated poor health outcomes (e.g. asthma, obesity, diabetes, cardiovascular disease and mental health problems) raise the risk of severe COVID-19 illness.
- **COVID-19 exposure**
Black, Asian and Minority Ethnic people are more likely to work in occupations, which increase their chances of COVID-19 exposure, via (i) greater general social contact and (ii) greater contact with people likely to be COVID-19-positive.
- **Healthcare and disease prevention**
Existing health promotion and clinical healthcare programmes are not accessible and effective enough to reduce chronic disease levels. Chronic physical and mental health problems raise the risk of severe COVID-19 illness and death.
- **Racism, stigma and fear**
Stress due to chronic racism depletes physical and mental health. Previously experienced stigma and discrimination, plus fear and lack of information, reduce health seeking and delay COVID-19 diagnosis and treatment.

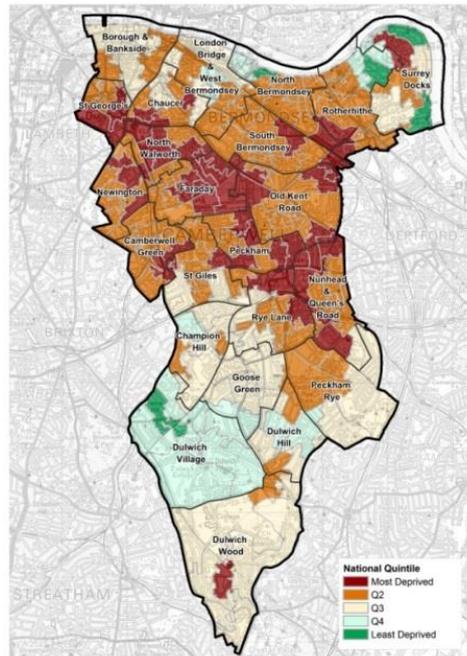
Workplace bullying erodes self-advocacy and compounds occupational risks.

The commission also heard that people in more deprived and urban areas are more likely to be diagnosed with COVID-19 and have poor outcomes. Between 1 March and 17 April 2020, the most deprived areas in England had more than double the mortality rate from COVID-19 than the least deprived areas.

Over a fifth of Southwark residents live in communities ranked in the most deprived 20% of England. More of our adolescents live in our deprived areas than the general population, especially those aged 10-17 years.

Figure 3. Map of Southwark, outlining levels of deprivation compared to national levels.

Deprivation in Southwark, orange-red are among the most deprived nationally



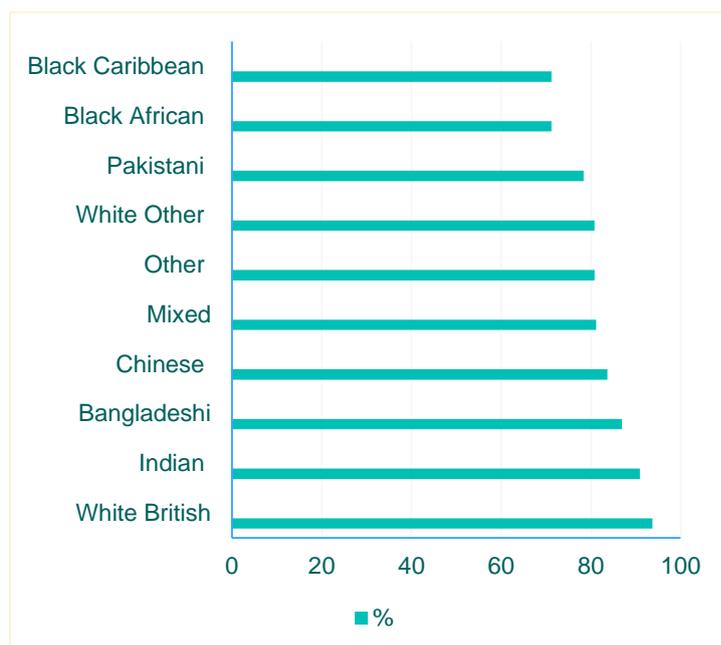
COVID 19 Vaccine take up

Vaccine take up is lower amongst many Black, Asian and Ethnic Minority communities and this intersects with socio-economic status.

A BMJ⁵ editorial reported that as of 14 February 2021 over 90% of adults in Britain have received or would be likely to accept the covid-19 vaccine if offered. However, the article highlights the much greater vaccine hesitancy among people from some ethnic minorities, with a survey from December 2020 showing that vaccine hesitancy was highest among Black, Bangladeshi, and Pakistani populations compared with people from a white ethnic background.

⁵ Covid-19 vaccine hesitancy among ethnic minority groups
<https://www.bmj.com/content/372/bmj.n513>

Figure 4: COVID-19 vaccination rates were lower for all ethnic groups compared with the White British group.⁶



The commission had a presentation from Southwark CCG on Vaccine Hesitancy and NHS colleges identified the following reasons:

- Lack of trust and confidence
- Concern about unknown side effects
- Distrust of pharmaceutical companies and authority
- Distrust of vaccines in general
- Lack of information from trusted sources
- Perception of not being at risk
- Belief that vaccination is another form of control
- Lack of understanding of who is at risk and why and whether people are guinea pigs
- Concern about ingredients

At the time of the presentation, at the end of January 2021, officers said that the vaccine refusal rate is declining, with some people indicating they may change their mind and decide to be vaccinated later down the line. As of January 2021 71% of over 80s were receiving the vaccine in Southwark, and by 3 June 2021 this had increased to 82% receiving at least one vaccine dose.

⁶ ONS Coronavirus and vaccination rates in people aged 50 years and over by socio-demographic characteristic, England: 8 December 2020 to 12 April 2021 ONS Coronavirus and vaccination rates in people aged 50 years and over by socio-demographic characteristic, England: 8 December 2020 to 12 April 2021

<https://www.ons.gov.uk/peoplepopulationandcommunity/healthandsocialcare/healthinequalities/bulletins/coronavirusandvaccinationratesinpeopleaged70yearsandoverbysociodemographiccharacteristicengland/8december2020to12april2021#identity-and-cultural-factors>

In Southwark, as of 3 June, first-dose coverage amongst the high-priority group of people aged 65 and over, and those who are clinically extremely vulnerable (CEV), is again highest for the white population (89%) and Asian (81%), followed by Other (74%), Mixed (73%) and lowest for the Black African (73%) and Black Caribbean (65%) populations

The BMJ linked the higher levels of vaccine hesitancy to racism noting that levels of distrust are highest amongst black populations and that trust is eroded by systemic racism and discrimination, previous unethical healthcare research in black populations, under-representation of minorities in health research and vaccine trials, and negative experiences within a culturally insensitive healthcare system.

The BMJ went on to note that vaccine hesitancy has serious implications as the pandemic continues to have a disproportionate effect on people from ethnic minorities, with higher covid-19 morbidity and mortality and greater adverse socioeconomic consequences. They advocated building trust through GPs and community organisations, and the importance of addressing legitimate concerns with information from trusted sources, rather than dismissing worries as conspiracy theories or people as ‘anti vaxxers’. At the same time, they urged that false information be addressed.

NHS and Southwark officers outlined the community engagement work that they are doing to understand and reach communities, which include outreach, surveys, social media, advertisements and the use of GPs, community and religious leaders. The commission would like to see this work closely tracked to ensure that communities with the lowest take-up, who frequently mirror those populations most at risk, are encouraged to be vaccinated.

The commission is also keen to ensure that everybody has an opportunity to be vaccinated, including undocumented migrants and discussed measures taken by other London boroughs to promote uptake. The City of Westminster has worked with community groups to provide popular pop up vaccine buses, with the Chinese community sites explaining that ‘no details or identity will be passed on to the police or immigration’.⁷ An event in Chinatown attracted over 500 people.

Hackney Council is also proactively working with local charities and doctors to set up pop-up clinics in the community to ensure ease of access to the vaccine and offer advice in a number of languages. The pop-ups will also be available for people who are homeless, as well as undocumented migrants, free of charge. This includes

⁷ <https://ciac.co.uk/2021/06/30/newpop-up-vaccination-clinic-london-chinatown-china-exchange-5th-july-2021/> the advert for the vaccination centre in Chinatown, on the flyer it states – ‘no details or identity will be passed on to the police or immigration’. <https://news.sky.com/story/covid-19-hundreds-head-to-londons-chinatown-as-vaccine-bus-offers-appointment-free-jabs-12318757>

people who have overstayed their visas, those on short-term visas who have failed to leave or those who have arrived into the UK without any visa.⁸

Southwark ought to undertake similar events. This is in line with Southwark's work to be part of the national City of Sanctuary movement, which aims to create a network of towns and cities throughout the UK which are proud to be places of safety and inclusion for people seeking sanctuary, welcoming refugees, asylum seekers and migrants.

Systemic racism and COVID 19

The commission considered a report from Baroness Doreen Lawrence report 'An Avoidable Crisis: The disproportionate impact of Covid-19 on Black, Asian and Minority Ethnic communities' produced summer 2020. This concluded that:

Covid-19 is having a disproportionate and devastating impact on ethnic minority communities. Not only are Black, Asian and Minority Ethnic people dying at a disproportionate rate, they are also overexposed to the virus and more likely to suffer the economic consequences. Despite repeated warnings, the Government has failed to take sufficient action.

Covid-19 has thrived on inequalities that have long scarred British society. Black, Asian and Minority Ethnic people are more likely to work in frontline or shutdown sectors which have been overexposed to Covid-19, more likely to have co-morbidities which increase the risk of serious illness and more likely to face barriers to accessing healthcare. Black, Asian and Minority Ethnic people have also been subject to disgraceful racism as some have sought to blame different communities for the spread of the virus.

This virus has exposed the devastating impact of structural racism. We need immediate action to protect people this winter, but we must also fix the broken system that has left ethnic minority people so exposed.'

The report highlighted a number of inequities in lockdown towards Black, Asian and Minority Ethnic communities, highlighting that Liberty has found that police forces in England and Wales are up to seven times more likely to fine Black, Asian and Minority Ethnic people for violating lockdown rules.

A number of recommendations were made. Some of these are specific to winter preparation and PPE, which have been covered in previous reviews on care homes, and most are targeted at central government, rather than local government. Nevertheless, some can be modified and adopted by Southwark, in particular:

- The Government should remove linguistic, cultural and digital barriers to accessing public health information. The Government should work with all relevant bodies, including faith and community groups, to identify effective channels to disseminate information and provide support.

⁸ <https://news.hackney.gov.uk/vaccinations-for-migrants/>.

- The Government should take immediate action to ensure comprehensive ethnicity data collection across the NHS and social care. The Government should also ensure all appropriate data collected and released by Government and public bodies is disaggregated to include a demographic breakdown.
- Implement a Race Equality Strategy, developed with Black, Asian and Minority Ethnic communities and with the confidence of all those it affects.
- The Government, working with the Devolved Administrations, should launch a review into the diversity of the school curriculum to ensure it includes Black British history, colonialism and Britain's role in the transatlantic slave trade.
- Equality impact assessments should be used much more effectively to shape and inform policy, and policymakers should seek to tackle structural racism with their decisions. The Government should also enact section 1 of the Equality Act, which covers socio-economic disadvantage.
- The Government must develop a clear plan to combat stigmatization of communities during the Covid-19 crisis.

Economic, educational, interpersonal and emotional impacts of lockdown

The impact of successive lockdowns has had wide-ranging impacts on children and young people. The pandemic is likely to widen existing inequalities and to disproportionately affect our more vulnerable children and young people.

Impacts include:

- Delays in educational achievement and progression
- Increased vulnerabilities to exploitation and offending
- Poorer future outlook & lack of optimism
- Increased exposure to Domestic Abuse and Child Abuse
- Increase in child to parent violence
- Bereavement
- Decreased visibility of vulnerable children not known to services
- Decreased ability of services to identify risks through virtual assessments
- Substance use & reduced access to sexual health services
- Food insecurity
- Poorer mental health & wellbeing, including loneliness
- Impact of increased parental stress, coping, poor mental health
- Negative impact on self-management of Long Term Conditions and access to support
- Uncertainty and difficulty in child contact arrangements (with parents)
- Lack of access to formal support
- Lack of access to social support networks

- Lack of diversionary activities
- No access to safe and nurturing spaces outside of the home, e.g. schools, youth clubs and play centers

The commission took a particular interest in the impact of Domestic Abuse, safeguarding and mental health.

Domestic Abuse

Domestic abuse (DA) is defined as any incident or pattern of incidents of controlling, coercive, threatening behavior, violence or abuse between those aged 16 or over who are or have been intimate partners or family members, regardless of gender or sexuality. The abuse can include, but is not limited to psychological, physical, sexual, financial, and emotional. Witnessing Domestic Abuse is an Adverse Childhood Experience that has the potential to negatively impact on children's mental and physical health throughout their life course.

Southwark has one of the highest volumes of DA in London, with very high levels of referrals to our specialist domestic abuse service. There has been generally rising demand over the last several years, although there was a small reduction in demand prior to lockdown. Since the start of the pandemic, there has been a significant increase in demand. For the period April 20 to March 21 the service saw a 21% increase in referrals compared to the same period the previous year (2879 against 2373 previously). We are yet to see any downturn in demand, referrals remain at an extremely high level; the period January to March 2021 saw 748 referrals to the service. This represents a 25% increase on the same period in 2020 (598 referrals). The average monthly number of referrals for FY 20/21 (April 2020 to March 2021) was 240, a 31% increase on the monthly average of 198 during FY 19/20. The number of referrals received from victims aged 16 to 25 also increased significantly, by 46%.

The increase in referrals was largely driven by a dramatic increase in high-risk referrals. In line with this, there was a corresponding increase in referrals to MARAC. The Multi Agency Risk Assessment Conference (MARAC) is coordinated by Southwark Council and meets fortnightly to provide a multi-agency response to high-risk cases of domestic abuse. During the period 28 April 2020 to 4 May 2021, Southwark MARAC heard 831 cases, this compares to 674 in the same period the previous year, an increase of 23%.

Children's social care recorded a 20% increase in contacts relating to domestic abuse in the period 1 April 2020 to 31 March 2021 (2,350), when compared to the previous year (1,956). Whilst referrals for domestic abuse increased by 31%, from 594 to 779. This in the context of a 13% reduction in the total number of contacts received, and a 2% reduction in referral.

Nationally NSPCC reported that contacts to their helpline about the impact of domestic abuse on children increased by 32% since the start of the lockdown, to an average of one an hour. In May 2020, the helpline received its highest number of contacts about domestic abuse since 2016 when the current recording method

began.

A report by Oxford and Manchester Universities suggests that child to parent violence has also significantly increased since lockdown measures were put in place. They found that the number of child to parent violent episodes increased by 70%, and that 69% of practitioners surveyed, said they had seen an increase in referrals for child to parent violence.

The commission heard that the council recognised very quickly the need to adapt the delivery of services including domestic abuse services during lockdown, moving from face to face to delivery via online and remote means. Additional funding has been put in place for two DA workers, to increase telephone capacity and support for high-risk victims. A communications campaign was also delivered across Southwark to raise awareness of domestic abuse and how to seek help.

The new Safe Space project was launched in February 2021. The initiative provides confidential rooms in a range of settings where survivors of domestic abuse can access information and make contact with specialist services. The scheme is currently operating across the network of Children and Family Centers, at more than 15 primary and secondary schools and the Tessa Jowell Health Hub. Further rollout of the scheme will include places of worship, community centers, council buildings and other primary care services.

A new group service has also been delivered to support parents where there is child to parent abuse and extra support has been provided to children in refuges. Longer term there are calls for the government to increase the profile and funding for domestic abuse.

Mental Health impacts of lockdown

Young Minds (a young people's mental health charity) carried out a survey with 2,036 young people with a history of mental health needs between Friday 6 June and Monday 5 July. This showed that:

- 80% of respondents agreed that the coronavirus pandemic had made their mental health worse (41% said that it had got much worse).
- 87% of respondents agreed that they had felt lonely or isolated during the lockdown period
- Among more than 1,000 respondents who were accessing mental health support in the three months leading up to the crisis (including from the NHS, school and university counsellors, private providers, charities and helplines), 31% said they were no longer able to access support but still needed it.

Officers identified that lack of access to school; formal support; reduced access to wider extended family and social support; a lack of access to youth clubs, play spaces, and peers have all affected children and young people's wellbeing. This is particularly so for young people who may be particularly reliant on support outside of

the home, and more exposed to abuse in the home.

Although some formal support has been possible through virtual mean, practitioners and young people have reported this has been less effective.

The Nest, Southwark's new open access mental health service for young people was able to open virtually.

Pem People emphasized the importance of a safe space for young people, generally but during lockdown in particular , and that young people raise the need for this continuously, for example an adventure playground. They acknowledged that this is not something that is easy to deliver, however they reported that young people are saying they are being taken to places they do not want to go, or are more vulnerable to street violence or stop and search, when they do not have access to a safe space. They reported that young people are using BMX and garages. As well as more promotion of The Nest Pem People also proposed a virtual peer support network.

The commission was particularly concerned by those families experiencing particular hardship, in particular children with SEN and young carers.

At the July Council Assembly a Youth New Deal was announced which will include recommissioning the youth service programmes, ('Positive futures for young people fund') to reflect young people's voices, by directly involving young people in the selection of providers with new programmes, to commence in April 2022. There are also plans to provide a new youth digital information hub and establish a new youth services portal/website as the cornerstone of the Youth New Deal, in order to provide comprehensive, up to date and accessible information about activities and services for young people and their families. This is welcome.

Recommendation One

The provision of physical and online Youth and Play spaces for young people ought to be prioritised, in recognition of the importance of the social support from adult and peers that young people are able to access in social spaces. Keeping these places open as safely as possible during any future lockdowns ought to be a key objective. The Youth New Deal ought to keep these outcomes in mind when commissioning.

Recommendation Two

The police and criminal justice system must develop a clear plan to combat stigmatisation of communities during the Covid-19 crisis.

Recommendation Three

The council and NHS closely track vaccine take up across cohorts with lowest take up and highest risk, including Black, Asian and Minority Ethnic Communities and people with lower social economic status, and take effective action to increase take-up. This ought to include addressing the linguistic, cultural and digital barriers to accessing information. The council and NHS should work with all relevant bodies, including faith and community groups, to

identify effective channels to disseminate information and provide support.

Recommendation Four

The commission recommends that the Council reiterate that the COVID-19 vaccines are offered to everyone in the UK, and reassures that this includes undocumented migrants, free of charge and safe from police or immigration. This includes people who have overstayed their visas, and those on short-term visas who have failed to leave or those who have arrived into the UK without visa.

To ensure everyone can access the COVID-19 vaccination no matter what their immigration status, the Council should work with local charities, local institutions and doctors to set up pop-up clinics in the community to ensure ease of access to the vaccine and offer advice in a number of languages.

The commission recognises that the Cabinet is making efforts to implement the stated above with the example of the walk-in vaccines at Millwall Football Club with no identification needed. But to make this effective there must be greater outreach to the undocumented community whilst also sound reassurance that no details or identity will be passed on to either the police or immigration bodies to create a safe space for those who wish to attend.

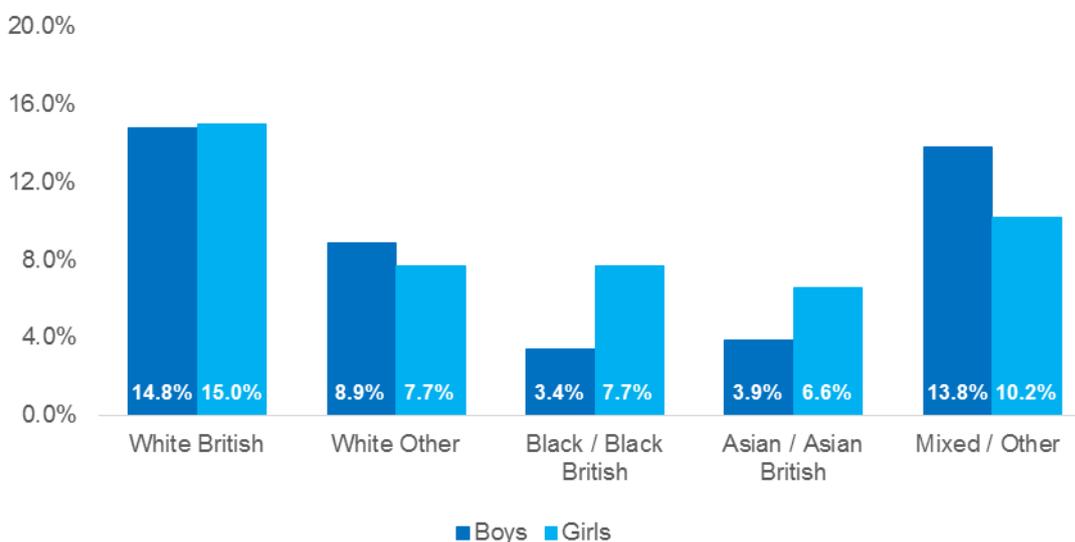
Prevalence of Black, Asian and Minority Ethnic children and young people's mental ill health.

The commission heard contradictory evidence on black people's mental health, with underrepresentation of disorders young people from all non-white ethnicities recorded in national survey, but elevated risk in older adults from Black communities.

The commission heard that Black and minority ethnic communities are at comparatively higher risk of mental ill health because of the wider socio- economic detriments associated with mental ill health, including deprivation and racism, however young black people report less mental ill health but older people from black ethnic groups are more at risk of severe mental illness.

Results from a national survey in 2017 of the mental health of children and young people show that 14.4% of children and young people in England aged 11 to 16 had a mental health disorder, with emotional disorders being the most prevalent. The results from the survey indicate that the prevalence of disorders is higher among those from a White British background, and lower among those from Black / Black British or Asian / Asian British backgrounds. The pattern is evident for "any disorder", as well as for different types of disorder.

Figure 5. Prevalence of any mental disorder by ethnicity and sex, 2017



Amongst adults almost one in five adults in Southwark are experiencing a common mental disorder, equating to approximately 47,000 individuals. The prevalence of severe mental illness in Southwark is 1.4% (approximately 3,800 patients) and severe mental illness disproportionately affects male, older and black ethnic population groups.⁹ Nationally people from African Caribbean communities are three times more likely to be diagnosed and admitted to hospital for schizophrenia than any other group. Locally black people are disproportionately diagnosed with

⁹ Page 2 Black, Asian and Minority Ethnic access to mental health services

schizophrenia and psychosis, though the picture is complex.¹⁰ Black Thrive, and national research, has raised concerns that racism influences the over diagnosis of psychosis and schizophrenia, which can negatively affect treatment trajectory.¹¹

The discrepancy between the low levels of mental health being recorded amongst Black, Asian and Minority Ethnic young people and the relatively high levels of serious mental ill in black older adults will be examined below, with several possible explanations.

¹⁰ See Briefing to the Commission, 21 January 2020, appendix a, slide 10, Top Diagnosis by Ethnicity.

¹¹ <https://diversityhealthcare.imedpub.com/schizophrenia-and-psychosis-the-magical-and-troubling-disappearance-of-race-from-the-debate.php?aid=3730>.

Unequal access to Mental Health services

Nationally black and minority ethnic people are less likely to be referred to talking therapies and more likely to be medicated for ill mental health. Locally there is an under representation of the black people in mental health service provision, and particularly SLaM CAMHS provision. This is the most intensive intervention for young people, and Black young people comprise only 25% of patients despite being making up 43 % of Southwark school age children.¹²

Graphs comparing the ethnicity reporting across school population, SLaM, The Nest and KOOOTH show an under representation of Black, Asian and Minority Ethnic young people, to varying degrees, of young people within the black/black British group across all providers. The variance within the mixed group and the Asian/Asian British group is less marked, with The Nest slightly over-performing in these categories

Graphs comparing the ethnicity reporting across school population, SLaM, The Nest & KOOOTH (available data 15 April 2021)¹³

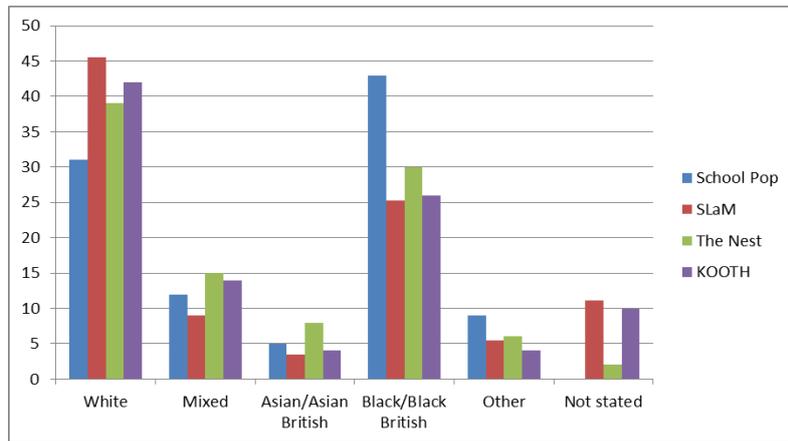


Figure 6. Ethnicity reporting across school populations.

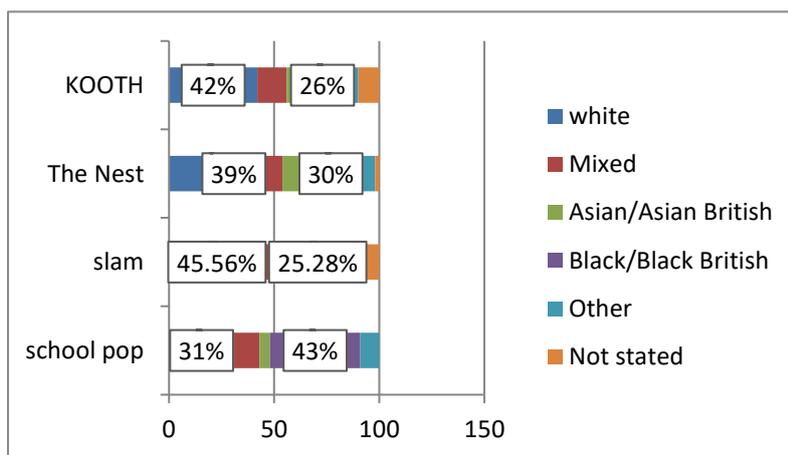


Figure 7. Ethnicity reporting across school populations.

¹² Page 3 UPDATE REPORT FOR HEALTH AND SOCIAL CARE SCRUTINY COMMISSION - APRIL 2021, Children And Young People's Emotional Wellbeing and Mental Health , Equality Monitoring Task and Finish Group

¹³ Page 4 & 5 UPDATE REPORT FOR HEALTH AND SOCIAL CARE SCRUTINY COMMISSION - APRIL 2021, Children And Young People's Emotional Wellbeing and Mental Health , Equality

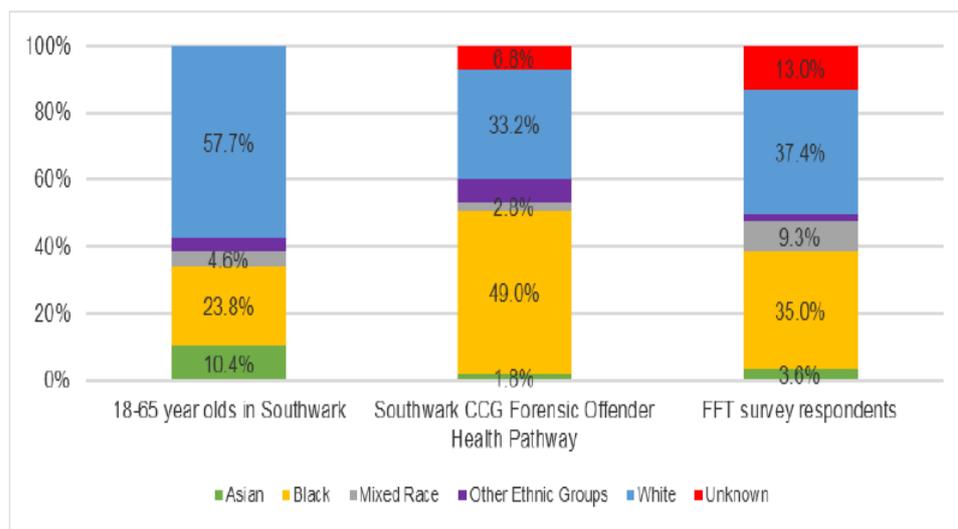
The numbers for 'not stated' are high and potentially mask significant numbers which might either improve access data for those who appear to be under represented, or which might increase disparities. Officers highlighted that it is crucial that providers endeavor to record ethnicity data, and move towards capturing data for the Latin American community.

Forensic and crisis care

Black and minority ethnic communities are more likely to end up in crisis and forensic care. Nationally black and minority ethnic people are 40 percent more likely to access mental health services via the criminal justice system than white people are;¹⁴ the same is true locally.

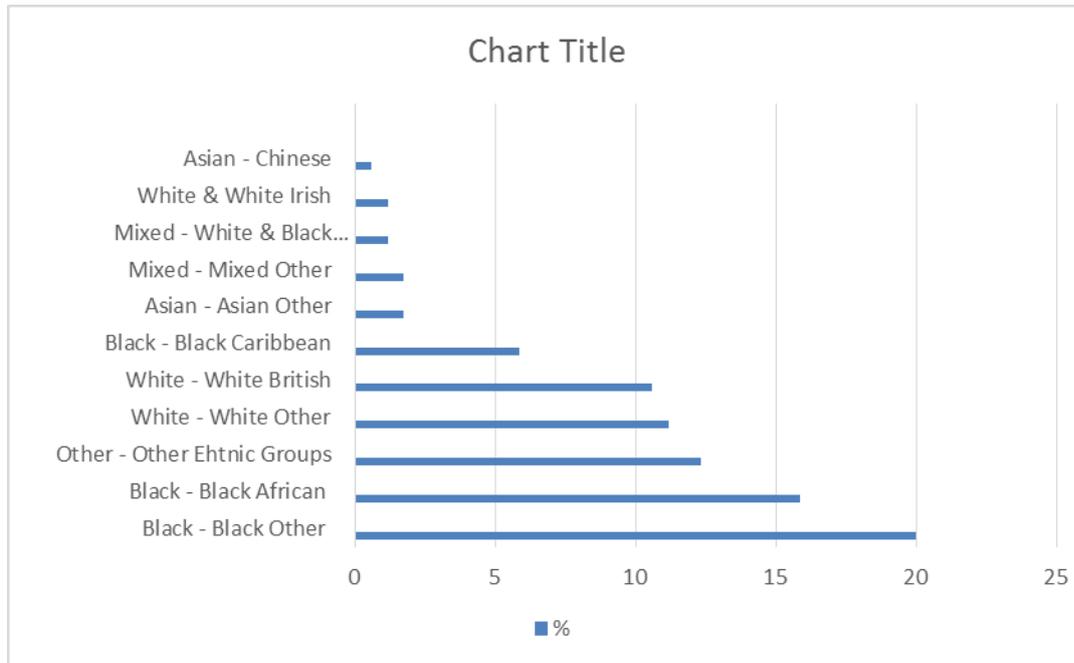
The chart below shows the ethnicity profile of Southwark NHS Clinical Commissioning Group (CCG) service users in forensic offender mental health services (between April 2018 and March 2019) compared to the ethnicity profile of 18-65 year olds in Southwark and the ethnicity of Friend and Family Test respondents to these services. (Between April 2016 and March 2019). This shows the disproportionate proportion of black people using these services:

Figure 8. Ethnicity profile of users of mental health services



The data below also shows that locally, 'Black' and 'Black – Black African' people are disproportionately medically sectioned compared to other demographics in the Borough from a briefing to the Commission, 21 January 2020, appendix A

Figure 9. Breaks down those who are medically sectioned by ethnicity within Southwark.



This information was discussed at the commission where the Strategic Director, David Quirk-Thornton remarked that the pathway to support for white people is often CAMHS, whereas for black young people it is often youth offending, and that this is racism rather than health inequalities. The commission would agree with this assessment and urge a consistent focus on reversing this trend through the work of Southwark's Stand Together and the Health and Wellbeing Board.

Recommendation Five

The council and NHS ought to develop a joint plan to reverse the trend of over representation of Black and Minority Ethnic people in crisis, forensic care and the criminal justice system through preventative work, a focus on race equality and by facilitating better access to mental health care in the community.

Work to address inequalities in mental health services

In the summer of 2020, the commission received a helpful and extensively researched paper from council officers and the Southwark NHS CCG, conducting an indicative review of Black, Asian and Minority Ethnic access to mental health services. This report recommended the mandatory collection of comprehensive

ethnicity data and to improve access; experiences and outcomes of NHS, local government and integrated care systems commissioned services by Black, Asian and Minority Ethnic communities.

In 2021, the commission received further follow up on this work, with a report from Children & Young People's Emotional Wellbeing and Mental Health Joint Working Group. Who are overseeing a project, which enables Southwark to demonstrate and to be assured that any inequalities within children and young people's emotional wellbeing and mental health provision are identified and addressed, and that learning is reflected in planning of future provision.

The project includes analysis of both quantitative data and qualitative data, which helps to identify barriers to access and includes analysis of whether there, is either over or under representation or any group or groups in specific services.

The project group includes a range of stakeholders including service leads and practitioners from SLAM (provider of CAMHS), KOOOTH and The Nest. The data above was provided through this work:

The following areas of good practice were noted:

- Patient and Carer Race Equality Framework is being implemented by CAMHS
- Equality & Diversity training is mandatory for all staff
- Diversity champions are being identified from within the workforce
- Access to interpreters is generally good
- Specific staffing placement programmes to encourage applicants from Black, Asian and Minority Ethnic groups are being introduced

Officers indicated that further areas require focus:-

- ethnicity is not always recorded
- The current recording of outcomes does not enable comment on whether there is a Black, Asian and Minority Ethnic outcome bias.
- The diversity of the workforce – to varying degrees amongst providers - is not representative of the population they serve
- There is a lack of resources in languages other than English
- There is a lack of training/provision in culturally adapted therapies
- Workshops & participation events for children and young people are generic – consideration of Black, Asian and Minority Ethnic groups is not consistent across providers
- Nothing specific in place for asylum seekers/refugees

The commission welcomed the above work and makes the below recommendations

to expand data collection and stakeholder engagement to include forensic and crisis care, and conduct additional engagement with Black, Asian and Minority Ethnic young people.

SLaM CAMHS

The commission heard directly from SLaM on work they are doing to address inequalities, which they acknowledge as a significant issue. CAMHS have prioritised increasing access for Asian and Black young people by 25% by March 2023.

They told the commission that they have identified a number of reasons for underrepresentation. The first is mental health stigma, family, cultural and community issues and concerns. The second centres on potential barriers in referral routes to CAMHS. The third is more directly about the service provision, for example, where clinical staff do not reflect the population served.

SLaM outlined their strategy to increase the equality of provision and work they are doing presently:

- Established Equality leads in every borough and are encouraging champions in every team
- CAMHS anti-racist forums and reflective spaces
- Co-production with young people on cultural competencies Engaging Black and Asian communities
- Quarterly monitoring of ethnicity caseload data on service users accepted and seen by CAMHS
- The diversity in recruitment champion programme and delivering the WRES in CAMHS.

They are also planning:

- Collaboration with community groups, representing Black, Asian and Minority Ethnic communities
- Improving the way CAMHS communicates about race equality (e.g. CAMHS Equality Newsletter and communication with schools)
- Trust is implementing Patient and Carer Race Equality Framework (PCREF) to address race inequalities across the Trust in partnership with local communities
- Recruitment uses Black and Asian therapy network

SLaM identified the following opportunities:

- Continuing to learn through Southwark engagement and involvement groups and activities; including other providers
- Working in partnership with our referrers to remove barriers in the system

(e.g. GPs, schools)

- Work in partnership with other providers e.g. The Nest Southwark, Kooth
- Continuing to develop a diverse CAMHS workforce who are supported to flourish at SLaM and have pride in the services they deliver
- Continued focus on staff access and analysis of existing data
- Across CAMHS and with partners, develop new ways of working in prevention and early help approaches across our communities

Recommendation Six

The Children & Young People's Emotional Wellbeing and Mental Health Joint Working Group:

- **Expand stakeholders and the collection of data on different Black, Asian and Minority Ethnic groups' usage of mental health services to the work that Southwark and the NHS funds in schools, as well as young offending, forensic and crisis care. In order to enable specific research and actions to address overrepresentation in forensic and crisis care and underrepresentation in community based and CAMHS mental health service provision.**
- **Encourage service providers to conduct engagement with Black, Asian and Minority Ethnic communities to ensure therapies are culturally appropriate and geographically accessible, and provide better and more equitable access to talking therapies according to local need and local demographics.**

Recommendation Seven

The commission is keen to see the work by SLaM develop and to deliver on the outcome of increasing uptake of CAMHS services and improvement in meeting the unmet mental health needs of Black, Asian and Minority Ethnic young people. The commission would like to see a particular focus on the last approach; CAMHS working with partners, including Black, Asian and Minority Ethnic community groups (including Latin American and European immigrant communities) to develop new ways of working in prevention and early help approaches across our communities. A report back on progress is requested in 6 months time, at the November meeting.

Addressing the causes of mental health, stigma, racism and cultural barriers to accessing mental health institutions.

Schools

Schools have an important role in addressing inequality and improving socio economic outcomes and Southwark schools are doing well in this regard, with exceptionally good performance post 16.

Nevertheless, some children remain disadvantaged. Black Thrive told us young black people are more likely to experience institutional racism in school with children less likely to receive a positive response to distress and more likely to experience punitive behavior managing techniques such a detention and exclusion.

This is born out to an extent by statistics provided by Southwark's education department, particularly for Black Caribbean students, mixed heritage students and Gypsy Roma children. The rate of permanent exclusion for Black Caribbean children is 1.5 times higher than the rate for White British children and the rate for Mixed White and Black Caribbean children slightly (1.1 times) higher. However, Black African children, have lower rates of permanent exclusions than White children do.

Figure 10. Rates of permanent exclusions by ethnicity in Southwark.

Rates of permanent exclusions per detailed ethnicity group in Southwark, compared to the national rate									
Ethnicity	Number			Southwark rate			National rate		
	2017/18	2018/19	Do T	2017/18	2018/19	Do T	2017/18	2018/19	Do T
Any other Asian background	0	0	◀	0.00	0.00	◀	0.08	0.08	◀
Any other Black background	2	1	▼	0.27	0.14	▼	0.30	0.29	▼
Any other Ethnic Group	3	1	▼	0.23	0.08	▼	0.15	0.18	▲
Any other Mixed background	5	2	▼	0.53	0.22	▼	0.30	0.24	▼
Any other White background	1	1	◀	0.08	0.08	▶	0.15	0.13	▼
Bangladeshi	0	0	◀	0.00	0.00	◀	0.09	0.09	◀
Black African	12	9	▼	0.25	0.18	▼	0.18	0.15	▼
Black Caribbean	11	8	▼	0.67	0.49	▼	0.50	0.46	▼
Chinese	0	0	◀	0.00	0.00	◀	0.02	0.02	◀
Gypsy Roma	0	0	◀	0.00	0.00	◀	0.96	1.08	▲
Indian	0	0	◀	0.00	0.00	◀	0.04	0.03	▼
Irish	0	0	◀	0.00	0.00	◀	0.28	0.10	▼
Pakistani	0	0	◀	0.00	0.00	◀	0.14	0.13	▼
Traveller of Irish heritage	0	0	◀	0.00	0.00	◀	0.88	0.91	▲
White and Asian	0	0	◀	0.00	0.00	◀	0.21	0.18	▼
White and Black African	1	0	▼	0.37	0.00	▼	0.32	0.24	▼
White and Black Caribbean	4	2	▼	0.75	0.35	▼	0.58	0.47	▼
White British	7	11	▲	0.22	0.33	▲	0.20	0.22	▲

This trend is even more pronounced when looking at the ethnicity of pupils given fixed period exclusions. The highest rates of fixed period exclusions in Southwark in 2018/19 were Gypsy Roma (27.78), though the numbers are small, followed by Black Caribbean (9.31), White and Black Caribbean (9.97) and Irish (6.10).

Figure 11. Rates of fixed period exclusions per detailed ethnicity group in Southwark, compared to the national rate.

Rates of fixed period exclusions per detailed ethnicity group in Southwark, compared to the national rate									
Ethnicity	Number			Southwark rate			National rate		
	2017/18	2018/19	Do T	2017/18	2018/19	Do T	2017/18	2018/19	Do T
Any other Asian background	9	1	▼	1.27	0.15	▼	1.45	1.50	▲
Any other Black background	135	99	▼	5.56	4.40	▼	5.80	5.91	▲
Any Other Ethnic Group	57	101	▲	1.84	3.26	▲	3.16	3.34	▲
Any other Mixed background	87	77	▼	3.65	3.20	▼	4.52	4.89	▲
Any other white background	67	64	▼	1.87	1.75	▼	2.74	2.89	▲
Bangladeshi	5	9	▲	0.49	0.91	▲	1.93	1.97	▲
Black African	551	502	▼	4.67	4.21	▼	4.08	4.13	▲
Black Caribbean	345	316	▼	10.01	9.31	▼	10.46	10.37	▼
Chinese	0	5	▲	0.00	0.88	▲	0.50	0.56	▲
Gypsy Roma	2	5	▲	11.11	27.78	▲	16.52	21.26	▲
Indian	0	0	◀	0.00	0.00	◀	0.75	0.88	▲
Irish	9	13	▲	4.59	6.10	▲	5.00	4.93	▼
Pakistani	5	3	▼	1.74	1.07	▼	2.52	3.10	▲
Traveller of Irish heritage	2	0	▼	4.88	0.00	▼	17.42	14.63	▼
White and Asian	2	5	▲	0.41	0.91	▲	3.41	3.79	▲
White and Black African	36	29	▼	4.65	3.59	▼	5.78	6.22	▲
White and Black Caribbean	140	137	▼	10.56	9.97	▼	10.13	10.69	▲
White British	360	412	▲	4.18	4.71	▲	5.70	6.01	▲

The commission discussed school exclusions, with a reported recent downward trend following a big focus on working towards Zero Exclusions.

Pem People raised concerns that Managed Moves may be increasing at year eleven, resulting in young people ending up in a PRU or criminal justice system, and advocated for more work addressing the reasons for children not engaging – for example depression and disengagement arising from bereavement, poverty, poor housing etc.

The commission considered some information on Managed Moves; however, the demographic data is not complete because the process is managed by schools independently. This area could be potentially be improved with more engagement with schools.

Southwark is putting 2 million into mental health provision and a proportion of that

has resulted provision of Mental Health nurses, which Pem People noted as a worthwhile provision.

Officers report that as part of the Improving Mental Health and Resilience in Schools (IMHARS) project, there are now more than 260 Mental Health First Aiders in schools across Southwark who play an important role in spotting the signs of mental health issues in a young person. Mental Health First Aiders offer first aid and guide a young person towards the support they need, as well as speed up a young person's recovery and aim to stop a mental health issue from getting worse. Officers said that school-based interventions, like Mental Health First Aiders, and others, could help improve the quality of children's home lives and family relationships, ensuring more children live in stronger families.

Recommendation Eight

The commission would urge the NHS CCG to ensure that the Mental Health First Aiders are diverse, that there is monitoring of the demographics of the young people they work with to ensure equal access that Mental Health nurses have an understanding of racism, and the role includes addressing the wider social issues that many young people are facing.

School Attainment

In other respects, Southwark schools are doing exceptionally well to tackle inequalities. It is notable that Southwark's disadvantaged students¹⁵ have the highest average attainment, compared to non-disadvantaged students nationally, post 16.¹⁶

Youth and community provision and co-design of services

Pem People told the commission that young black men are more likely to encounter mental health difficulties as they face greater challenges but there is reluctance to access services, because of stigma and cultural barriers. They commented that Southwark has a richness of services; however, there is a need to move away from a medical model to a social care model with relationships at the core.

They said that CAMHS is a quite scarce resource that has failed to register with young black people, who are more likely to go to community groups with people who look like them. Likewise, Pem People said The Nest is unlikely to have registered with many young people. Pem People suggested that messaging is developed with the community so there is a meeting of minds with an ongoing conversation and collaboration in order to promote this service effectively.

There was a discussion about if there is a need to decommission services and make them more people centred, or if it would be better to review services, such as

¹⁵ Disadvantaged students are defined throughout the below report as those who were known to be eligible for and claiming free school meals in any of the six years prior to finishing key stage 4

¹⁶ Page 10 and page 31, measuring the disadvantage attainment gap, Education Policy Institute & Nuffield Foundation, March 2021.

CAMHS, to address systemic issues, rather than either adding more money or doing away with a particular service.

National research echoes the points made by Pem People as this suggests that matching the cultural, linguistic religious and/or racial identity between service users and practitioners can improve treatment duration and outcomes.¹⁷

Black Thrive, working with a similar community in Lambeth, identified institutional racism as one of the reasons that black people have poorer outcomes from services. They said that national and local evidence indicates that black and minority ethnic people want the impact of racism and wider inequalities on their mental health to be addressed in the treatment for their mental illness and in preventative work.

The commission discussed broadening Southwark's mental health coalition, by ensuring bodies such as the Health and Wellbeing Board are diverse. A specific proposal was made to formulate a network of Black, Asian and Minority Ethnic young people to be on boards and involved in Southwark's commissioning process.

Pem People said there is a need for practitioners and commissioners to come and visit outside local projects outside of the 9-5 pm, commenting that young people are not hard to reach, but rather hard to hear. Commission members echoed this and recommended outreach with Latin American and eastern European communities.

Both Black Thrive and Pem People also proposed a more social and structural approach to mental health, which addresses racism, structural inequalities and the wider causes of mental ill health. Pem People said that young people are lacking hope and feeling, displaced by regeneration, and emphasised the importance of safe social spaces. Black Thrive have a broader remit focused on prevention and tackling racism with priorities such as reducing violence that affects young people, Stop and Search and Decolonising knowledge production.

The last recommendation, to adopt a Race Equality Framework to support the Southwark's work on mental health, is informed by the work of Black Thrive, which works strategically with partners to co-design services with the Black, Asian and Minority Ethnic community to tackle the causes of mental distress, including racism and the wider determinants of mental health. This would also build on the government's pledge to introduce a new Patient and Carer Race Equality Framework (PCREF). The Council should work within the boundaries of this framework, whilst also seeking guidance from external bodies such as Runnymede and Black Thrive, in pursuit of creating its own Race Equality Framework in the delivery of Southwark 100 % universal reach target.

Recommendation Nine

The Health and Wellbeing Board monitor the diversity of its members and take action to address any lack of diversity

¹⁷ Racial disparities in mental health: Literature and evidence review, Race Equality Foundation 2019

Recommendation Ten

A network of Black, Asian, Minority Ethnic young people, and community groups are developed to inform the work of the Children & Young People's Emotional Wellbeing and Mental Health Joint Working Group / Health and Wellbeing Board. This ought to be diverse and include Latin American, Eastern European, mixed heritage and other minority groups, paying particular attention to communities with poorer mental health outcomes and experiencing socio- economic disadvantage.

Recommendation Eleven

Adopt a Race Equality Framework in the delivery of Southwark 100 % universal reach target. This calls for a broader piece of work, with Black, Asian and a broad range of Minority Ethnic communities, to address the causes of mental ill health, which explicitly seeks to address racism and structural inequalities.

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